

# AN ACT

To amend sections 4730.26, 4730.32, 4731.224, 4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4760.14, 4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4762.16, 4774.01, 4774.14, 4774.16, 5167.01, and 5167.03, to enact sections 4731.251, 4731.252, 4731.253, 4759.012, 4759.062, 4759.071, 4759.13, 4761.012, 4761.091, 4761.19, and 4778.17, and to repeal sections 4761.031 and 4761.08 of the Revised Code to provide for the establishment of a confidential program for the treatment of impaired practitioners regulated by the State Medical Board, to modify the laws governing the Board's regulation of dietitians and respiratory care professionals, to make other changes in the laws administered by the Board, to provide that the General Assembly's authorization is needed before long-term care services are further included in the Medicaid managed care system, and to declare an emergency.

*Be it enacted by the General Assembly of the State of Ohio:*

SECTION 1. That sections 4730.26, 4730.32, 4731.224, 4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4760.14, 4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4762.16, 4774.01, 4774.14, 4774.16, 5167.01, and 5167.03 be amended and sections 4731.251, 4731.252, 4731.253, 4759.012, 4759.062, 4759.071, 4759.13, 4761.012, 4761.091, 4761.19, and 4778.17 of the Revised Code be enacted to read as follows:

Sec. 4730.26. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or a rule adopted under it. In an investigation involving the practice or supervision of a physician assistant pursuant to the policies of a health care facility, the board may require that the health care facility provide any information the board considers necessary to identify either or both of the following:

- (1) The facility's policies for the practice of physician assistants within the facility;
- (2) The services that the facility has authorized a particular physician assistant to provide for the facility.

(B) Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or rule adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages

as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(C) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4730.33 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(D) In investigating a possible violation of this chapter or a rule adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or a rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a physician assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(E) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(F) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given or, in the case of a patient, a waiver of the patient privilege exists under division (B) of section 2317.02 of the Revised Code, except that consent or a waiver is not required if the board possesses reliable and substantial evidence that no bona fide physician-patient relationship exists.

The board may share any information it receives pursuant to an investigation, including

patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(G) The state medical board shall develop requirements for and provide appropriate initial and continuing training for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training ~~council~~ commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(H) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of ~~certificate~~ license, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be submitted to the physician assistant policy committee of the board and is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4730.32. (A) Within sixty days after the imposition of any formal disciplinary action taken by a health care facility against any individual holding a valid license to practice as a physician assistant issued under this chapter, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against a physician assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the

board shall be liable in damages to any person as a result of providing the records.

~~(B)–A–(1) Except as provided in division (B)(2) of this section, a physician assistant, professional association or society of physician assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information upon which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to a physician assistant participating in treatment or aftercare for substance abuse as long as the physician assistant maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to believe that the physician assistant has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of physician assistants to provide peer assistance to physician assistants with substance abuse problems with respect to a physician assistant who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the physician assistant cooperates with the referral for examination and with any determination that the physician assistant should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the physician assistant has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.~~

(2) A physician assistant, professional association or society of physician assistants, physician, or professional association or society of physicians that believes that a violation of division (B)(5) of section 4730.25 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of physician assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing or nonfiling of a report with the board, investigation by the board, or any disciplinary action taken by the board, shall not preclude a professional organization from taking disciplinary action against a physician assistant.

(D) Any insurer providing professional liability insurance to any person holding a valid license to practice as a physician assistant issued under this chapter or any other entity that seeks to

indemnify the professional liability of a physician assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took

place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the physician assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a physician assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a physician assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a physician assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the physician assistant. The physician assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired physician assistant to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of physician assistants that sponsors a committee or program to provide peer assistance to a physician assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by

reason of actions taken to refer a physician assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4731.224. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any individual holding a valid license or certificate to practice issued pursuant to this chapter, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility. As used in this division, "formal disciplinary action" means any action resulting in the revocation, restriction, reduction, or termination of clinical privileges for violations of professional ethics, or for reasons of medical incompetence, or medical malpractice, ~~or drug or alcohol abuse~~. "Formal disciplinary action" includes a summary action, an action that takes effect notwithstanding any appeal rights that may exist, and an action that results in an individual surrendering clinical privileges while under investigation and during proceedings regarding the action being taken or in return for not being investigated or having proceedings held. "Formal disciplinary action" does not include any action taken for the sole reason of failure to maintain records on a timely basis or failure to attend staff or section meetings.

The filing or nonfiling of a report with the board, investigation by the board, or any disciplinary action taken by the board, shall not preclude any action by a health care facility to suspend, restrict, or revoke the individual's clinical privileges.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

(B) ~~If (1) Except as provided in division (B)(2) of this section, if any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of any provision of this chapter, Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. of the Revised Code, or any rule of the board has occurred, the individual, association, or society shall report to the board the information upon which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an impaired practitioner participating in treatment or aftercare for substance abuse as long as the practitioner maintains participation in accordance with the requirements of section 4731.25 of the Revised Code, and as long as the treatment provider or employee, agent, or representative of the provider has no reason to believe that the practitioner has violated any provision of this chapter or any rule adopted under it, other than the provisions of division (B)(26) of section 4731.22 of the Revised Code. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of individuals authorized to practice under this chapter to provide peer assistance to practitioners with substance abuse problems with respect to a practitioner who has been referred for examination to a treatment program approved by~~

~~the board under section 4731.25 of the Revised Code if the practitioner cooperates with the referral for examination and with any determination that the practitioner should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the practitioner has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or any rule adopted under it, other than the provisions of division (B)(26) of section 4731.22 of the Revised Code.~~

(2) If any individual authorized to practice under this chapter or any professional association or society of such individuals believes that a violation of division (B)(26) of section 4731.22 of the Revised Code has occurred, the individual, association, or society shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of doctors of medicine and surgery, doctors of osteopathic medicine and surgery, doctors of podiatric medicine and surgery, or practitioners of limited branches of medicine that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an individual.

(D) Any insurer providing professional liability insurance to an individual authorized to practice under this chapter, or any other entity that seeks to indemnify the professional liability of such an individual, shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for medical malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the practicing individual.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a health care professional or facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an individual whose practice is regulated under this chapter, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing the individual or in reviewing the individual's clinical privileges. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the individual who is the subject of the reports or summaries. The individual shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that, pursuant to this section, reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired practitioner to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, no professional association or society of individuals authorized to practice under this chapter that sponsors a committee or program to provide peer assistance to practitioners with substance abuse problems, no representative or agent of such a committee or program, no representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and no member of the state medical board shall be held liable in damages to any person by reason of actions taken to refer a practitioner to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4731.24. Except as provided in sections 4731.281 and 4731.40 of the Revised Code, all receipts of the state medical board, from any source, shall be deposited in the state treasury. The funds shall be deposited to the credit of the state medical board operating fund, which is hereby created. Except as provided in sections 4730.252, 4731.225, 4731.24, ~~4759.071~~, 4760.133, ~~4761.091~~, 4762.133, 4774.133, and 4778.141 of the Revised Code, all funds deposited into the state treasury under this section shall be used solely for the administration and enforcement of this chapter and Chapters 4730., 4759., 4760., 4761., 4762., 4774., and 4778. of the Revised Code by the board.

Sec. 4731.25. The state medical board, in accordance with Chapter 119. of the Revised Code, shall adopt and may amend and rescind rules establishing standards for approval of physicians and facilities as treatment providers for ~~impaired practitioners who are regulated under this chapter or Chapter 4730., 4759., 4760., 4761., 4762., 4774., or 4778. suffering or showing evidence of suffering~~ impairment as described in division (B)(5) of section 4730.25, division (B)(26) of section 4731.22., division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section



4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code. The rules shall include standards for both inpatient and outpatient treatment and for care and monitoring that continues after treatment. The rules shall provide that in order to be approved, a treatment provider must have the capability of making an initial examination to determine what type of treatment an impaired practitioner requires. Subject to the rules, the board shall review and approve treatment providers on a regular basis. The board, at its discretion, may withdraw or deny approval subject to the rules.

An approved impaired practitioner treatment provider shall do all of the following:

(A) Report to the board the name of any practitioner suffering or showing evidence of suffering impairment ~~as described in division (B)(5) of section 4730.25 of the Revised Code, division (B)(26) of section 4731.22 of the Revised Code, division (A)(4) of section 4759.07 of the Revised Code, division (B)(6) of section 4760.13 of the Revised Code, division (B)(6) of section 4762.13 of the Revised Code, division (B)(6) of section 4774.13 of the Revised Code, or division (B)(6) of section 4778.14 of the Revised Code~~ who fails to comply within one week with a referral for examination;

(B) Report to the board the name of any impaired practitioner who fails to enter treatment within forty-eight hours following the provider's determination that the practitioner needs treatment;

(C) Require every practitioner who enters treatment to agree to a treatment contract establishing the terms of treatment and aftercare, including any required supervision or restrictions of practice during treatment or aftercare;

(D) Require a practitioner to suspend practice upon entry into any required inpatient treatment;

(E) Report to the board any failure by an impaired practitioner to comply with the terms of the treatment contract during inpatient or outpatient treatment or aftercare;

(F) Report to the board the resumption of practice of any impaired practitioner before the treatment provider has made a clear determination that the practitioner is capable of practicing according to acceptable and prevailing standards of care;

(G) Require a practitioner who resumes practice after completion of treatment to comply with an aftercare contract that meets the requirements of rules adopted by the board for approval of treatment providers;

(H) Report the identity of any practitioner practicing under the terms of an aftercare contract to hospital administrators, medical chiefs of staff, and chairpersons of impaired practitioner committees of all health care institutions at which the practitioner holds clinical privileges or otherwise practices. If the practitioner does not hold clinical privileges at any health care institution, the treatment provider shall report the practitioner's identity to the impaired practitioner committee of the county medical society, osteopathic academy, or podiatric medical association in every county in which the practitioner practices. If there are no impaired practitioner committees in the county, the treatment provider shall report the practitioner's identity to the president or other designated member of the county medical society, osteopathic academy, or podiatric medical association.

(I) Report to the board the identity of any practitioner who suffers a relapse at any time during or following aftercare.

Any individual authorized to practice under this chapter who enters into treatment by an

approved treatment provider shall be deemed to have waived any confidentiality requirements that would otherwise prevent the treatment provider from making reports required under this section.

In the absence of fraud or bad faith, no person or organization that conducts an approved impaired practitioner treatment program, no member of such an organization, and no employee, representative, or agent of the treatment provider shall be held liable in damages to any person by reason of actions taken or recommendations made by the treatment provider or its employees, representatives, or agents.

Sec. 4731.251. (A) As used in this section and in sections 4731.252 and 4731.253 of the Revised Code:

(1) "Impaired" or "impairment" has the same meaning as in division (B)(5) of section 4730.25, division (B)(26) of section 4731.22, division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section 4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code.

(2) "Practitioner" means any of the following:

(a) An individual authorized under this chapter to practice medicine and surgery, osteopathic medicine and surgery, podiatric medicine and surgery, or a limited branch of medicine;

(b) An individual licensed under Chapter 4730. of the Revised Code to practice as a physician assistant;

(c) An individual authorized under Chapter 4759. of the Revised Code to practice as a dietitian;

(d) An individual authorized under Chapter 4760. of the Revised Code to practice as an anesthesiologist assistant;

(e) An individual authorized under Chapter 4761. of the Revised Code to practice respiratory care;

(f) An individual authorized under Chapter 4762. of the Revised Code to practice as an acupuncturist or oriental medicine practitioner;

(g) An individual authorized under Chapter 4774. of the Revised Code to practice as a radiologist assistant;

(h) An individual licensed under Chapter 4778. of the Revised Code to practice as a genetic counselor.

(B) The state medical board shall establish a confidential program for treatment of impaired practitioners, which shall be known as the one-bite program. The board shall contract with one organization to conduct the program and perform monitoring services.

To be qualified to contract with the board under this section, an organization must meet all of the following requirements:

(1) Be sponsored by one or more professional associations or societies of practitioners;

(2) Be organized as a not-for-profit entity and exempt from federal income taxation under subsection 501(c)(3) of the Internal Revenue Code;

(3) Contract with or employ to serve as the organization's medical director an individual who is authorized under this chapter to practice medicine and surgery or osteopathic medicine and surgery and specializes or has training and expertise in addiction medicine;

(4) Contract with or employ one or more of the following as necessary for the organization's

operation:

(a) An individual licensed under Chapter 4758. of the Revised Code as an independent chemical dependency counselor-clinical supervisor, independent chemical dependency counselor, chemical dependency counselor III, or chemical dependency counselor II;

(b) An individual licensed under Chapter 4757. of the Revised Code as an independent social worker, social worker, licensed professional clinical counselor, or licensed professional counselor;

(c) An individual licensed under Chapter 4732. of the Revised Code as a psychologist.

(C) The monitoring organization shall do all of the following pursuant to the contract:

(1) Receive any report of suspected impairment, including a report made under division (B)(2) of section 4730.32, division (B)(2) of section 4731.224, section 4759.13, division (B)(2) of section 4760.16, section 4761.19, division (B)(2) of section 4762.16, division (B)(2) of section 4774.16, or section 4778.17 of the Revised Code;

(2) Notify a practitioner who is the subject of a report received under division (C)(1) of this section that the report has been made and that the practitioner may be eligible to participate in the program conducted under this section;

(3) Determine whether a practitioner reported to the monitoring organization is eligible to participate in the program and notify the practitioner of the determination;

(4) In the case of a practitioner reported by a treatment provider, notify the treatment provider of the eligibility determination;

(5) Report to the board any practitioner who is determined ineligible to participate in the program;

(6) Refer an eligible practitioner who chooses to participate in the program for evaluation by a treatment provider approved by the board under section 4731.25 of the Revised Code, unless the report received by the monitoring organization was made by an approved treatment provider and the practitioner has already been evaluated by the treatment provider;

(7) Monitor the evaluation of an eligible practitioner;

(8) Refer an eligible practitioner who chooses to participate in the program to a treatment provider approved by the board under section 4731.25 of the Revised Code;

(9) Establish, in consultation with the treatment provider to which a practitioner is referred, the terms and conditions with which the practitioner must comply for continued participation in and successful completion of the program;

(10) Report to the board any practitioner who does not complete evaluation or treatment or does not comply with any of the terms and conditions established by the monitoring organization and the treatment provider;

(11) Perform any other activities specified in the contract with the board or that the monitoring organization considers necessary to comply with this section and sections 4731.252 and 4731.253 of the Revised Code.

(D) The monitoring organization shall not disclose to the board the name of a practitioner or any records relating to a practitioner, unless any of the following occurs:

(1) The practitioner is determined to be ineligible to participate in the program.

(2) The practitioner requests the disclosure.

(3) The practitioner is unwilling or unable to complete or comply with any part of the

program, including evaluation, treatment, or monitoring.

(4) The practitioner presents an imminent danger to the public or to the practitioner, as a result of the practitioner's impairment.

(5) The practitioner has relapsed or the practitioner's impairment has not been substantially alleviated by participation in the program.

(E)(1) The monitoring organization shall develop procedures governing each of the following:

(a) Receiving reports of practitioner impairment;

(b) Notifying practitioners of reports and eligibility determinations;

(c) Referring eligible practitioners for evaluation or treatment;

(d) Establishing individualized treatment plans for eligible practitioners, as recommended by treatment providers;

(e) Establishing individualized terms and conditions with which eligible practitioners must comply for continued participation in and successful completion of the program.

(2) The monitoring organization, in consultation with the board, shall develop procedures governing each of the following:

(a) Providing reports to the board on a periodic basis on the total number of practitioners participating in the program, without disclosing the names or records of any program participants other than those about whom reports are required by this section;

(b) Reporting to the board any practitioner who due to impairment presents an imminent danger to the public or to the practitioner;

(c) Reporting to the board any practitioner who is unwilling or unable to complete or comply with any part of the program, including evaluation, treatment, or monitoring;

(d) Reporting to the board any practitioner whose impairment was not substantially alleviated by participation in the program or who has relapsed.

(F) The board may adopt any rules it considers necessary to implement this section and sections 4731.252 and 4731.253 of the Revised Code, including rules regarding the monitoring organization and treatment providers that provide treatment to practitioners referred by the monitoring organization. Any such rules shall be adopted in accordance with Chapter 119. of the Revised Code.

Sec. 4731.252. (A) A practitioner is eligible to participate in the program established under section 4731.251 of the Revised Code if all of the following are the case:

(1) The practitioner is impaired.

(2) The practitioner has not participated previously in the program.

(3) Unless the state medical board has referred the practitioner to the program, the practitioner has not been sanctioned previously by the board under division (B)(5) of section 4730.25, division (B)(26) of section 4731.22, division (A)(18) of section 4759.07, division (B)(6) of section 4760.13, division (A)(18) of section 4761.09, division (B)(6) of section 4762.13, division (B)(6) of section 4774.13, or division (B)(6) of section 4778.14 of the Revised Code.

(B) All of the following apply to a practitioner who participates in the program:

(1) The practitioner must comply with all terms and conditions for continued participation in and successful completion of the program.

(2) On acceptance into the program, the practitioner must suspend practice until after the later of the following:

(a) The date the treatment provider determines that the practitioner is no longer impaired and is able to practice according to acceptable and prevailing standards of care;

(b) The end of a period specified by the treatment provider, which shall be not less than thirty days.

(3) The practitioner is responsible for all costs associated with participation.

(4) The practitioner is deemed to have waived any right to confidentiality that would prevent the monitoring organization conducting the program or a treatment provider from making reports required by section 4731.251 of the Revised Code.

Sec. 4731.253. In the absence of fraud or bad faith, no monitoring organization that conducts a program established under section 4731.251 of the Revised Code and no agent, employee, member, or representative of such organization shall be liable in damages in a civil action or subject to criminal prosecution for performing any of the duties required by that section, the contract with the state medical board, or section 4731.252 of the Revised Code.

Sec. 4731.291. (A) An individual seeking to pursue an internship, residency, or clinical fellowship program in this state, who does not hold a license to practice medicine and surgery or osteopathic medicine or surgery issued under this chapter, shall apply to the state medical board for a training certificate. The application shall be made on forms that the board shall furnish and shall be accompanied by an application fee of ~~seventy-five~~ one hundred thirty dollars.

An applicant for a training certificate shall furnish to the board all of the following:

(1) Evidence satisfactory to the board that the applicant is at least eighteen years of age and is of good moral character.

(2) Evidence satisfactory to the board that the applicant has been accepted or appointed to participate in this state in one of the following:

(a) An internship or residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association;

(b) A clinical fellowship program at an institution with a residency program accredited by either the accreditation council for graduate medical education of the American medical association or the American osteopathic association that is in a clinical field the same as or related to the clinical field of the fellowship program;

(3) Information identifying the beginning and ending dates of the period for which the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program;

(4) Any other information that the board requires.

(B) If no grounds for denying a license or certificate under section 4731.22 of the Revised Code apply, and the applicant meets the requirements of division (A) of this section, the board shall issue a training certificate to the applicant. The board shall not require an examination as a condition of receiving a training certificate.

A training certificate issued pursuant to this section shall be valid only for ~~the period of three~~ years, but may in the discretion of the board and upon application duly made, be renewed ~~annually~~

~~thereafter for up to two additional years for one additional three-year period.~~ The fee for renewal of a training certificate shall be ~~thirty-five one hundred~~ thirty-five one hundred dollars.

The board shall maintain a register of all individuals who hold training certificates.

(C) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to the holder's internship, residency, or clinical fellowship program, but the holder shall not be entitled otherwise to engage in the practice of medicine and surgery or osteopathic medicine and surgery in this state. The holder shall limit activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall train only under the supervision of the physicians responsible for supervision as part of the internship, residency, or clinical fellowship program.

A training certificate may be revoked by the board upon proof, satisfactory to the board, that the holder thereof has engaged in practice in this state outside the scope of the internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon proof, satisfactory to the board, that the holder thereof has engaged in unethical conduct or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

(D) The board may adopt rules as the board finds necessary to effect the purpose of this section.

Sec. 4731.573. (A) An individual seeking to pursue an internship, residency, or clinical fellowship program in podiatric medicine and surgery in this state, who does not hold a license to practice podiatric medicine and surgery issued under this chapter, shall apply to the state medical board for a training certificate. The application shall be made on forms that the board shall furnish and shall be accompanied by an application fee of ~~seventy-five one hundred thirty~~ seventy-five one hundred thirty dollars.

An applicant for a training certificate shall furnish to the board all of the following:

(1) Evidence satisfactory to the board that the applicant is at least eighteen years of age and is of good moral character;

(2) Evidence satisfactory to the board that the applicant has been accepted or appointed to participate in this state in one of the following:

(a) An internship or residency program accredited by either the council on podiatric medical education or the American podiatric medical association;

(b) A clinical fellowship program at an institution with a residency program accredited by either the council on podiatric medical education or the American podiatric medical association that is in a clinical field the same as or related to the clinical field of the fellowship program.

(3) Information identifying the beginning and ending dates of the period for which the applicant has been accepted or appointed to participate in the internship, residency, or clinical fellowship program;

(4) Any other information that the board requires.

(B) If no grounds for denying a license or certificate under section 4731.22 of the Revised Code apply and the applicant meets the requirements of division (A) of this section, the board shall issue a training certificate to the applicant. The board shall not require an examination as a condition of receiving a training certificate.

A training certificate issued pursuant to this section shall be valid only for ~~the period of one year~~ three years, but may in the discretion of the board and upon application duly made, be renewed

~~annually for a maximum of five years~~ one additional three-year period. The fee for renewal of a training certificate shall be ~~thirty-five~~ one hundred dollars.

The board shall maintain a register of all individuals who hold training certificates.

(C) The holder of a valid training certificate shall be entitled to perform such acts as may be prescribed by or incidental to the holder's internship, residency, or clinical fellowship program, but the holder shall not be entitled otherwise to engage in the practice of podiatric medicine and surgery in this state. The holder shall limit activities under the certificate to the programs of the hospitals or facilities for which the training certificate is issued. The holder shall train only under the supervision of the podiatrists responsible for supervision as part of the internship, residency, or clinical fellowship program. A training certificate may be revoked by the board upon proof, satisfactory to the board, that the holder thereof has engaged in practice in this state outside the scope of the internship, residency, or clinical fellowship program for which the training certificate has been issued, or upon proof, satisfactory to the board, that the holder thereof has engaged in unethical conduct or that there are grounds for action against the holder under section 4731.22 of the Revised Code.

(D) The board may adopt rules as the board finds necessary to effect the purpose of this section.

Sec. 4759.012. The secretary of the state medical board shall enforce the laws relating to the practice of dietetics. If the secretary has knowledge or notice of a violation of this chapter or the rules adopted under it, the secretary shall investigate the matter and, upon probable cause appearing, file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county shall take charge of and conduct the prosecution.

Sec. 4759.02. (A) Except as otherwise provided in this section or in section 4759.10 of the Revised Code, no person shall practice, offer to practice, or hold self forth to practice dietetics unless the person has been licensed under section 4759.06 of the Revised Code.

(B) ~~Except for a licensed dietitian holding an inactive license who does not practice or offer to practice dietetics, or a person licensed under section 4759.06 of the Revised Code, or as otherwise provided in this section or in section 4759.10 of the Revised Code:~~

(1) No person shall use the title "dietitian"; ~~and~~

(2) No person except for a person licensed under ~~Chapters 4701. to 4755. Title XLVII~~ of the Revised Code, when acting within the scope of their practice, shall use any other title, designation, words, letters, abbreviation, or insignia or combination of any title, designation, words, letters, abbreviation, or insignia tending to indicate that the person is practicing dietetics.

(C) Notwithstanding division (B) of this section, a person who is a dietitian registered by the commission on dietetic registration and who does not violate division (A) of this section may use the designation "registered dietitian" and the abbreviation "R.D."

(D) Division (A) of this section does not apply to:

(1) A student enrolled in an academic program that is in compliance with division (A)~~(5)~~~~(4)~~ of section 4759.06 of the Revised Code who is engaging in the practice of dietetics under the supervision of a dietitian licensed under section 4759.06 of the Revised Code or a dietitian registered by the commission on dietetic registration, as part of the academic program;

(2) A person participating in the pre-professional experience required by division (A)~~(6)~~~~(5)~~

of section 4759.06 of the Revised Code;

(3) A person holding a limited permit under division ~~(F)~~(E) of section 4759.06 of the Revised Code.

~~(E) Divisions (A) and (B) of this section do not apply to a person who performs no more than fifteen days of dietetic practice in the state and who meets at least one of the following requirements:~~

~~(1) The state medical board determines that the person is licensed in another state with licensure requirements equivalent to or more stringent than those set forth in this chapter;~~

~~(2) The person is a dietitian registered by the commission on dietetic registration and resides in another state that either has no dietitian licensure requirements or has licensure requirements less stringent than those set forth in this chapter.~~ The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person who either directly or by complicity is in violation of this section, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful activity by applying for an injunction in the Franklin county court of common pleas or any other court of competent jurisdiction.

Prior to application for such injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful activity by registered mail that the secretary has received information indicating that the person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.

Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court. Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided under this chapter.

Sec. 4759.05. ~~(A)~~ The state medical board shall:

~~(A) Adopt~~ adopt, amend, or rescind rules pursuant to Chapter 119. of the Revised Code to carry out the provisions of this chapter, including rules governing the following:

(1) Selection and approval of a dietitian licensure examination offered by the commission on dietetic registration or any other examination;

(2) The examination of applicants for licensure as a dietitian, ~~to be held at least twice annually,~~ as required under division (A) of section 4759.06 of the Revised Code;

(3) Requirements for pre-professional dietetic experience of applicants for licensure as a dietitian that are at least equivalent to the requirements adopted by the commission on dietetic registration;

(4) Requirements for a person holding a limited permit under division ~~(F)~~(E) of section 4759.06 of the Revised Code, including the duration of validity of a limited permit and procedures for renewal;



~~(5) Requirements for a licensed dietitian who places a license in inactive status under division (G) of section 4759.06 of the Revised Code, including a procedure for changing inactive status to active status;~~

~~(6) Continuing education requirements for renewal of a license, except that the board may adopt rules to waive the requirements for a person who is unable to meet the requirements due to illness or other reasons including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country. Rules adopted under this division shall be consistent with the continuing education requirements adopted by the commission on dietetic registration.~~

~~(7)(6) Any additional education requirements the board considers necessary, for applicants who have not practiced dietetics within five years of the initial date of application for licensure;~~

~~(8)(7) Standards of professional responsibility and practice for persons licensed under this chapter that are consistent with those standards of professional responsibility and practice adopted by the academy of nutrition and dietetics;~~

~~(9)(8) Formulation of an application form for licensure or license renewal that includes the statement that any applicant who knowingly makes a false statement on the application is guilty of a misdemeanor of the first degree under section 2921.13 of the Revised Code;~~

~~(10)(9) Procedures for license renewal;~~

~~(11) Establishing a time period after the notification of a violation of section 4759.02 of the Revised Code, by which the person notified must request a hearing by the board under section 4759.09 of the Revised Code;~~

~~(12)(10) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code.~~

~~(B) Investigate alleged violations of sections 4759.02 to 4759.10 of the Revised Code. In making its investigations(1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.~~

~~(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4759.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.~~

~~(3) In investigating a possible violation of this chapter or any rule adopted under this chapter, the board may issue subpoenas, examine question witnesses, and conduct interviews, administer oaths, order the taking of depositions, inspect and copy any books, accounts, papers, records, or~~

documents, and compel the attendance of witnesses and the production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board.

Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or limited permit issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(4) All hearings, investigations, and inspections of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(5) A report required to be submitted to the board under this chapter, a complaint, or information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations or inspections and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation or inspection, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are

taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(6) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

(a) The case number assigned to the complaint or alleged violation;

(b) The type of license, if any, held by the individual against whom the complaint is directed;

(c) A description of the allegations contained in the complaint;

(d) The disposition of the case.

The report shall state how many cases are still pending and shall be prepared in a manner that protects the identity of each person involved in each case. The report shall be a public record under section 149.43 of the Revised Code.

~~(C) Conduct meetings and~~ The board shall keep records as are necessary to carry out the provisions of this chapter;

~~(D) Publish, and make available to the public, upon request and for a fee not to exceed the actual cost of printing and mailing.~~ The board shall maintain and publish on its internet web site the board's rules and requirements for licensure adopted under division (A) of this section.

Sec. 4759.051. (A) The state medical board shall appoint a dietetics advisory council for the purpose of advising the board on issues relating to the practice of dietetics ~~and the investigation of complaints regarding the practice of dietetics~~. The advisory council shall consist of not more than seven individuals knowledgeable in the area of dietetics. ~~A~~

A majority of the council members shall be individuals licensed under this chapter who are actively engaged in the practice of dietetics who meet the requirements for licensure under section 4759.06 of the Revised Code. The board shall include both of the following on the council one:

(1) One educator with a doctoral degree who holds a regular faculty appointment in a program that prepares students to meet the requirements of division (A)(5)-(4) of section 4759.06 of the Revised Code and one member;

(2) One individual who is not affiliated with any health care profession, who shall be appointed to represent the interest of consumers.

The Ohio academy of nutrition and dietetics, or its successor organization, may nominate ~~the names of up to not more than~~ three qualified individuals for consideration by the board in ~~making appointments for each vacancy on~~ appointing any member of the council.

(B) Not later than ninety days after ~~the effective date of this section~~ January 21, 2018, the board shall make initial appointments to the council. ~~Members~~ Initial members shall serve three-year staggered terms of office in accordance with rules adopted of one, two, or three years, as selected by the board. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as did the term that it succeeds. A council member shall continue in office subsequent to the expiration date of the member's term until a successor is appointed and takes office, or until a period of sixty days has elapsed, whichever occurs first. Each council member shall hold

office from the date of appointment until the end of the term for which the member was appointed.

~~(C) With approval from the director of administrative services, members may receive an amount fixed under division (J) of section 124.15 of the Revised Code for each day the member is performing the member's official duties and~~ Members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in performing those their official duties.

(D) The council shall meet at least four times ~~per each~~ year and at such other times as may be necessary to carry out its responsibilities.

(E) The council ~~shall~~ may submit to the board recommendations concerning all of the following:

(1) Requirements for issuing a license to practice as a ~~dietician~~ dietitian or as a limited permit holder, including the educational and experience requirements that must be met to receive the license or ~~limited~~ permit;

(2) Existing and proposed rules pertaining to the practice of dietetics and the administration and enforcement of this chapter;

(3) Standards for the approval of educational programs required to qualify for licensure and continuing education programs for licensure renewal;

~~(4) Procedures for~~ Policies related to the issuance and renewal of licenses and limited permits;

(5) Fees for the issuance and renewal of a license to practice dietetics as a licensee or as a limited permit holder;

(6) Standards of practice and ethical conduct in the practice of dietetics;

~~(7) Complaints concerning alleged violation of sections 4759.02 to 4759.10 of the Revised Code or grounds for the suspension, revocation, refusal to issue, or issuance of probationary licenses or limited permits;~~

~~(8) The safe and effective practice of dietetics, including scope of practice and minimal standards of care.~~

Sec. 4759.06. (A) The state medical board shall issue ~~or renew~~ a license to practice dietetics to an applicant who meets all of the following requirements:

(1) Has satisfactorily completed an application for licensure in accordance with rules adopted under division (A) of section 4759.05 of the Revised Code;

(2) Has paid the fee required under division (A) of section 4759.08 of the Revised Code;

~~(3) Is a resident of the state or performs or plans to perform dietetic services within the state;~~

~~(4)~~ Is of good moral character;

~~(5)~~ (4) Has received a baccalaureate or higher degree from an institution of higher education that is approved by the board or a regional accreditation agency that is recognized by the council on postsecondary accreditation, and has completed a program consistent with the academic standards for dietitians established by the academy of nutrition and dietetics;

~~(6)~~ (5) Has successfully completed a pre-professional dietetic experience approved by the academy of nutrition and dietetics, or experience approved by the board under division (A)(3) of section 4759.05 of the Revised Code;

~~(7)~~ (6) Has passed the examination approved by the board under division (A)(1) of section 4759.05 of the Revised Code;

~~(8) Is an applicant for renewal of a license, and has fulfilled the continuing education requirements adopted under division (A)(6) of section 4759.05 of the Revised Code.~~

~~(B) The board shall waive the requirements of divisions (A)(4), (5), and (6), and (7) of this section and any rules adopted under division (A)(7)-(6) of section 4759.05 of the Revised Code if the applicant presents satisfactory evidence to the board of current registration as a registered dietitian with the commission on dietetic registration.~~

~~(C) The board shall waive the requirements of division (A)(7) of this section if the application for renewal is made within two years after the date of license expiration.~~

~~(D) The board may waive the requirements of division (A)(5), (6), or (7) of this section or any rules adopted under division (A)(7) of section 4759.05 of the Revised Code, if the applicant presents satisfactory evidence of education, experience, or passing an examination in another state or a foreign country, that the board considers the equivalent of the requirements stated in those divisions or rules.~~

~~(E)(1) The board shall issue an initial a license to practice dietetics to an applicant who meets the requirements of division (A) of this section. An initial A license issued before July 1, 2018, shall be valid from the date of issuance through the thirtieth day of expire on June following issuance of the license. Each subsequent license shall be valid from the first day of July through the thirtieth day of June 30, 2018. The A license issued on or after July 1, 2018, shall expire on the thirtieth day of June of the next even-numbered year after issuance. A license may be renewed.~~

~~(2) The board shall renew the an applicant's license of an applicant who is licensed to practice dietetics and who if the applicant meets the continuing education requirements of adopted under division (A)(6)-(5) of section 4759.05 of the Revised Code and has paid the license renewal fee specified in section 4759.08 of the Revised Code. The renewal shall be pursuant to the standard renewal procedure of sections 4745.01 to 4745.03 of the Revised Code.~~

~~(F) At least one month before a license expires, the board shall provide a renewal notice. Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section. Each person holding a license shall give notice to the board of a change in the license holder's residence address, business address, or electronic mail address not later than thirty days after the change occurs.~~

~~(D) Any person licensed to practice dietetics by the former Ohio board of dietetics before January 21, 2018, may continue to practice dietetics in this state under that license if the person continues to meet the requirements to renew a license under this chapter and renews the license through the state medical board.~~

~~The state medical board may take any of the following actions, as provided in section 4759.07 of the Revised Code, against the holder of a license to practice dietetics issued before January 21, 2018, by the former Ohio board of dietetics:~~

- ~~(1) Limit, revoke, or suspend the holder's license;~~
- ~~(2) Refuse to renew or reinstate the holder's license;~~
- ~~(3) Reprimand the holder or place the holder on probation.~~

~~(E)(1) The board may grant a limited permit to a person who has completed the education and pre-professional requirements of divisions (A)(5)-(4) and (6)-(5) of this section and who presents evidence to the board of having applied to take the examination approved by the board under division~~

(A)(1) of section 4759.05 of the Revised Code. ~~A~~An application for a limited permit shall be made on forms that the board shall furnish and shall be accompanied by the limited permit fee specified in section 4759.08 of the Revised Code.

(2) If no grounds apply under section 4759.07 of the Revised Code for denying a license to the applicant and the applicant meets the requirements of division (E)(1) of this section, the board shall issue a limited permit to the applicant.

A limited permit expires in accordance with rules adopted under section 4759.05 of the Revised Code. A limited permit may be renewed in accordance with those rules.

(3) The board shall maintain a register of all persons holding limited permits under this chapter.

(4) A person holding a limited permit who has failed the examination shall practice only under the direct supervision of a licensed dietitian.

~~(G) A licensed dietitian may place the license in inactive status.~~

(5) The board may revoke a limited permit on proof satisfactory to the board that the permit holder has engaged in practice in this state outside the scope of the permit, that the holder has engaged in unethical conduct, or that grounds for action against the holder exist under section 4759.07 of the Revised Code.

Sec. 4759.062. (A) A license to practice dietetics that is not renewed on or before its expiration date is automatically suspended on its expiration date. Continued practice after suspension shall be considered as practicing in violation of section 4759.02 of the Revised Code.

(B) If a license has been suspended pursuant to division (A) of this section for two years or less, it may be reinstated. The state medical board shall reinstate the license upon the applicant's submission of a complete renewal application and payment of a reinstatement fee of two hundred five dollars.

(C)(1) If a license has been suspended pursuant to division (A) of this section for more than two years, it may be restored. The board may restore the license upon an applicant's submission of a complete restoration application and a restoration fee of two hundred thirty dollars and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a license unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to section 4759.06 of the Revised Code.

(2) The board may impose terms and conditions for the restoration, including any one or more of the following:

(a) Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice;

(b) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(c) Restricting or limiting the extent, scope, or type of practice of the applicant.

Sec. 4759.07. (A) The state medical board ~~may, in accordance with Chapter 119, of the Revised Code, refuse to issue, review, or renew, or may suspend, revoke, or impose probationary conditions upon any license or permit to practice dietetics, if the applicant has, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual,~~

refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:

(1) ~~Violated sections 4759.02 to 4759.10 of the Revised Code Except when civil penalties are imposed under section 4759.071 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or the rules adopted under those sections by the board;~~

(2) ~~Knowingly made~~ Making a false, fraudulent, deceptive, or misleading statement in an application for licensure or license renewal the solicitation of or advertising for patients; in relation to the practice of dietetics; or in securing or attempting to secure any license or permit issued by the board under this chapter.

As used in division (A)(2) of this section, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.

(3) ~~Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;~~

(3) ~~Been convicted of any crime constituting a felony in this or any other state;~~

(4) ~~Been impaired in ability to perform as a licensed dietitian due to the use of a controlled substance or alcoholic beverage;~~

(5) ~~Been convicted of a misdemeanor committed in the course of work as a dietitian in this or any other state;~~

(6) ~~A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a felony;~~

(5) ~~Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;~~

(6) ~~A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;~~

(7) ~~Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~

(8) ~~A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;~~

(9) ~~Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~

(10) ~~A record of engaging in incompetent or negligent conduct in the practice of dietetics;~~

(B) ~~For purposes of this division, any individual who holds a license or permit issued under this chapter, or applies for a license or permit to practice dietetics, is deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.~~

~~For purposes of division (A)(4) of this section, if the board has reason to believe that any individual who holds a license or permit issued under this chapter or any applicant for a license or permit suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.~~

~~Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or permit or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or renewed licensure, to submit to treatment.~~

~~Before being eligible to apply for reinstatement of a license or permit suspended under this division, the dietitian shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:-~~

~~(1) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;~~

~~(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;~~

~~(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.~~

~~The board may reinstate a license or permit suspended under this division after such demonstration and after the individual has entered into a written consent agreement.~~

~~When the impaired dietitian resumes practice, the board shall require continued monitoring of the dietitian. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the dietitian has maintained sobriety.~~

~~(C) One year or more after the date of suspension or revocation of a license or permit under division (A)(1), (2), (3), (5), or (6) of this section, an application for reinstatement of the license or permit may be made to the board. The board shall grant or deny reinstatement with a hearing, at the request of the applicant, in accordance with Chapter 119. of the Revised Code and may impose conditions upon the reinstatement, including the requirement of passing an examination approved by the board;~~

~~(11) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;~~

~~(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent~~



misrepresentations in the course of practice;

(13) Violation of the conditions of limitation placed by the board on a license or permit;

(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including, physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;

(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A)(11), (12), or (14) of this section;

(18) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(19) Failure to cooperate in an investigation conducted by the board under division (B) of section 4759.05 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

(20) Representing with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured.

(B) Any action taken by the board under division (A) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or permit may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or permit suspended pursuant to division (A) of this section requires an affirmative vote of not fewer than six members of the board.

(C) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.

(D) Disciplinary actions taken by the board under division (A) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an

adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no force or effect.

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

(E) In enforcing division (A)(14) of this section, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in division (A)(14) of this section, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or permit. For the purpose of division (A)(14) of this section, any individual who applies for or receives a license or permit under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(F) For the purposes of division (A)(18) of this section, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or permit under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for a license or permit suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond

the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or permit or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license or permit, to submit to treatment.

Before being eligible to apply for reinstatement of a license or permit suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's license or permit. The demonstration shall include, but shall not be limited to, the following:

(1) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license or permit suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the individual has maintained sobriety.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or permit without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (A) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a license or permit without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed

on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

(H) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) of this section.

(I) For purposes of divisions (A)(5), (7), and (9) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(J) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(K) If the board takes action under division (A)(4), (6), or (8) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (A) of this section.

(L) The license or permit issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be

considered practicing without a license or permit.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or permit is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's license or permit.

(M) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or permit issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or permit in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

Sec. 4759.071. (A)(1) If the holder of a license or limited permit issued under this chapter violates any section of this chapter, other than the continuing education requirements adopted under division (A)(5) of section 4759.05 of the Revised Code, or violates any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4759.07 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members. Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (A)(18) of section 4759.07 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4759.08. (A) The state medical board shall charge and collect fees as described in this section for issuing the following:

(1) An application for an initial dietitian license, ~~or an application for reactivation of an inactive license, one hundred twenty-five dollars, and for reinstatement of a lapsed, revoked, or suspended license, one two hundred eighty twenty-five dollars;~~

(2) License renewal, ~~ninety-five~~ one hundred eighty dollars;  
 (3) A limited permit, ~~and or~~ renewal of the permit, sixty-five dollars;  
 (4) A duplicate license or permit, ~~twenty-three~~ twenty-five dollars;  
 (5) ~~For processing a late application for renewal of any license or permit, an additional fee equal to fifty per cent of the fee for the renewal. In the case of a person holding a license issued under this chapter, a license verification fee of fifty dollars.~~

~~(B) The board shall not require a licensed dietitian holding an inactive license to pay the renewal fee.~~

~~(C) Subject to the approval of the controlling board, the state medical board may establish fees in excess of the amounts provided in division (A) of this section, provided that the fees do not exceed the amounts by greater than fifty per cent.~~

~~(D) The board may adopt rules pursuant to Chapter 119. of the Revised Code to waive all or part of the fee for an initial license if the license is issued within one hundred days of the date of expiration of the license.~~

~~(E) All receipts of the board shall be deposited in the state treasury to the credit of the state medical board operating fund in accordance with section 4731.24 of the Revised Code.~~

Sec. 4759.10. Sections 4759.01 to ~~4759.09~~ 4759.08 of the Revised Code do not apply to any of the following:

(A) A person licensed under ~~Chapters 4701. to 4755. Title XLVII~~ of the Revised Code who is acting within the scope of the person's profession, provided that the person complies with division (B) of section 4759.02 of the Revised Code;

(B) A person who is a graduate of an associate degree program approved by the academy of nutrition and dietetics or the state medical board who is working as a dietetic technician under the supervision of a dietitian licensed under section 4759.06 of the Revised Code or registered by the commission on dietetic registration, except that the person is subject to division (B) of section 4759.02 of the Revised Code if the person uses a title other than "dietetic technician";

(C) A person who practices dietetics related to employment in the armed forces, veteran's administration, or the public health service of the United States;

(D) Persons employed by a nonprofit agency approved by the board or by a federal, state, municipal or county government, or by any other political subdivision, elementary or secondary school, or an institution of higher education approved by the state medical board or by a regional agency recognized by the council on postsecondary accreditation, who performs only nutritional education activities and such other nutritional activities as the ~~state medical~~ board, by rule, permits, provided the person does not violate division (B) of section 4759.02 of the Revised Code;

(E) A person who has completed a program meeting the academic standards set for dietitians by the academy of nutrition and dietetics, received a baccalaureate or higher degree from a school, college, or university approved by a regional accreditation agency recognized by the council on postsecondary accreditation, works under the supervision of a licensed dietitian or registered dietitian, and does not violate division (B) of section 4759.02 of the Revised Code;

(F) A person when acting, under the direction and supervision of a person licensed under ~~Chapters 4701. to 4755. Title XLVII~~ of the Revised Code, in the execution of a plan of treatment authorized by the licensed person, provided the person complies with division (B) of section 4759.02

of the Revised Code;

(G) The free dissemination of literature in the state;

(H) Provided that the persons involved in the sale, promotion, or explanation of the sale of food, food materials, or dietary supplements do not violate division (B) of section 4759.02 of the Revised Code, the sale of food, food materials, or dietary supplements and the marketing and distribution of food, food materials, or dietary supplements and the promotion or explanation of the use of food, food materials, or dietary supplements provided that the promotion or explanation does not violate Chapter 1345. of the Revised Code;

(I) A person who offers dietary supplements for sale and who makes the following statements about the product if the statements are consistent with the dietary supplement's label or labeling:

(1) Claim a benefit related to a classical nutrient deficiency disease and disclose the prevalence of the disease in the United States;

(2) Describe the role of a nutrient or dietary ingredient intended to affect the structure or function of the human body;

(3) Characterize the documented mechanism by which a nutrient or dietary ingredient acts to maintain the structure or function of the human body;

(4) Describe general well-being from the consumption of a nutrient or dietary ingredient.

(J) Provided that the persons involved in presenting a general program of instruction for weight control do not violate division (B) of section 4759.02 of the Revised Code, a general program of instruction for weight control approved in writing by a licensed dietitian, a physician licensed under Chapter 4731. of the Revised Code to practice medicine or surgery or osteopathic medicine or surgery, a person licensed in another state that the board considers to have substantially equivalent licensure requirements as this state, or a registered dietitian;

(K) The continued practice of dietetics at a hospital by a person employed at that same hospital to practice dietetics for the twenty years immediately prior to July 1, 1987, so long as the person works under the supervision of a dietitian licensed under section 4759.06 of the Revised Code and does not violate division (B) of section 4759.02 of the Revised Code. This division does not apply to any person who has held a license issued under this chapter to practice dietetics. As used in this division, "hospital" has the same meaning as in section 3727.01 of the Revised Code.

Sec. 4759.13. A dietitian, professional association or society of dietitians, physician, or professional association or society of physicians that believes a violation of division (A)(18) of section 4759.07 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the state medical board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired dietitian to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

In the absence of fraud or bad faith, a professional association or society of dietitians that

sponsors a committee or program to provide peer assistance to a dietitian with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a dietitian to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4760.01. As used in this chapter:

(A) "Ambulatory surgical facility" has the same meaning as in section 3702.30 of the Revised Code.

(B) "Anesthesiologist assistant" means an individual who assists an anesthesiologist in developing and implementing anesthesia care plans for patients.

(C) "Anesthesiologist" means a physician who has successfully completed an approved anesthesiology training program, as specified in the accreditation requirements that must be met to qualify as graduate medical education ~~under~~, as defined in section 4731.091-4731.04 of the Revised Code.

(D) "Hospital" has the same meaning as in section 3727.01 of the Revised Code.

(E) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

Sec. 4760.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4760.15 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.



On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an anesthesiologist assistant, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training ~~council~~ commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each

case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4760.16. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by an insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid certificate to practice as an anesthesiologist assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an anesthesiologist assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

~~(B) An (1) Except as provided in division (B)(2) of this section, an anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an anesthesiologist assistant participating in treatment or aftercare for substance abuse as long as the anesthesiologist assistant maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to believe that the anesthesiologist assistant has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of anesthesiologist assistants to provide peer assistance to anesthesiologist assistants with substance abuse problems with respect to an anesthesiologist assistant who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the anesthesiologist assistant cooperates with the referral for examination and with any determination that the anesthesiologist assistant should enter treatment and as long as the committee member,~~

~~representative, or agent has no reason to believe that the anesthesiologist assistant has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.~~

(2) An anesthesiologist assistant, professional association or society of anesthesiologist assistants, physician, or professional association or society of physicians that believes that a violation of division (B)(6) of section 4760.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of anesthesiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an anesthesiologist assistant.

(D) Any insurer providing professional liability insurance to any person holding a valid certificate to practice as an anesthesiologist assistant or any other entity that seeks to indemnify the professional liability of an anesthesiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the anesthesiologist assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an anesthesiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section.

The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an anesthesiologist assistant or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an anesthesiologist assistant or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the anesthesiologist assistant. The anesthesiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired anesthesiologist assistant to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of anesthesiologist assistants that sponsors a committee or program to provide peer assistance to an anesthesiologist assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an anesthesiologist assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4761.01. As used in this chapter:

(A) "Respiratory care" means rendering or offering to render to individuals, groups, organizations, or the public any service involving the evaluation of cardiopulmonary function, the treatment of cardiopulmonary impairment, the assessment of treatment effectiveness, and the care of patients with deficiencies and abnormalities associated with the cardiopulmonary system. The practice of respiratory care includes:

(1) Obtaining, analyzing, testing, measuring, and monitoring blood and gas samples in the determination of cardiopulmonary parameters and related physiologic data, including flows, pressures, and volumes, and the use of equipment employed for this purpose;

(2) Administering, monitoring, recording the results of, and instructing in the use of medical gases, aerosols, and bronchopulmonary hygiene techniques, including drainage, aspiration, and sampling, and applying, maintaining, and instructing in the use of artificial airways, ventilators, and other life support equipment employed in the treatment of cardiopulmonary impairment and provided in collaboration with other licensed health care professionals responsible for providing care;

(3) Performing cardiopulmonary resuscitation and respiratory rehabilitation techniques;

(4) Administering medications for the testing or treatment of cardiopulmonary impairment.

(B) "Respiratory care professional" means a person who is licensed under this chapter to

practice the full range of ~~respiratory care services as defined described~~ in division (A) of this section.

(C) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(D) "Registered nurse" means an individual licensed under Chapter 4723. of the Revised Code to engage in the practice of nursing as a registered nurse.

(E) "Hospital" means a facility that meets the operating standards of section 3727.02 of the Revised Code.

(F) "Nursing facility" has the same meaning as in section 5165.01 of the Revised Code.

~~(G) "Certified hyperbaric technologist" means a person who administers hyperbaric oxygen therapy and is certified as a hyperbaric technologist by the national board of diving and hyperbaric medical technology or its successor organization.~~

~~(H) "Hyperbaric oxygen therapy" means the administration of pure oxygen in a pressurized room or chamber, except that it does not include ventilator management.~~

~~(I) "Advanced practice registered nurse" has the same meaning as in section 4723.01 of the Revised Code.~~

~~(J)(H) "Physician assistant" means an individual who holds a valid license to practice as a physician assistant issued under Chapter 4730. of the Revised Code authorizing the individual to provide services as a physician assistant to patients under the supervision, control, and direction of one or more physicians.~~

Sec. 4761.012. The secretary of the state medical board shall enforce the laws relating to the practice of respiratory care. If the secretary has knowledge or notice of a violation of this chapter or the rules adopted under it, the secretary shall investigate the matter, and, upon probable cause appearing, file a complaint and prosecute the offender. When requested by the secretary, the prosecuting attorney of the proper county shall take charge of and conduct the prosecution.

Sec. 4761.03. (A) The state medical board shall regulate the practice of respiratory care in this state and the persons to whom the board issues licenses and limited permits under this chapter. Rules adopted under this chapter that deal with the provision of respiratory care in a hospital, other than rules regulating the issuance of licenses or limited permits, shall be consistent with the conditions for participation under medicare, Title XVIII of the "Social Security Act," 79 Stat. 286 (1965), 42 U.S.C.A. 1395, as amended, and with the respiratory care accreditation standards of the joint commission on accreditation of healthcare organizations or the American osteopathic association.

(B) The board shall:

(A) Adopt adopt, and may rescind or amend, rules in accordance with Chapter 119. of the Revised Code to carry out the purposes of this chapter, including rules prescribing the following:

(1) The form and manner for filing applications for licensure and renewal, limited permits, and limited permit extensions under sections 4761.05 and 4761.06 of the Revised Code;

(2) The form, scoring, and scheduling Standards for the approval of examinations and reexaminations administered by national organizations for licensure and, license renewal, and license reinstatement;

(3) Standards for the approval of educational programs required to qualify for licensure and approval of continuing education programs required for license renewal;

(4) Continuing education courses and the number of hour requirements necessary for license renewal, ~~in accordance with~~ under section 4761.06 of the Revised Code, including rules providing for pro rata reductions by month of the number of hours of continuing education that must be completed for license holders who are in their first renewal period, have been disabled by illness or accident, or have been absent from the country;

(5) Procedures for the issuance and renewal of licenses and limited permits, including the duties that may be fulfilled by the board's executive director and other board employees;

(6) Procedures for the ~~denial limitation~~, suspension, ~~permanent and~~ revocation of licenses and limited permits, the refusal to issue, renew, and reinstatement of or reinstate licenses and limited permits, ~~the conduct of hearings, and the imposition of fines for engaging in conduct that is grounds for such action and hearings a reprimand or probation~~ under section 4761.09 of the Revised Code;

(7) Standards of ethical conduct for the practice of respiratory care;

(8) ~~Conditions under which the license renewal fee and continuing education requirements may be waived at the request of a licensee who is not in active practice;~~

(9) ~~The respiratory care tasks that may be performed by an individual practicing as a polysomnographic technologist pursuant to division (B)(3) of section 4761.10 of the Revised Code;~~

(10) ~~Procedures for registering out-of-state respiratory care providers authorized to practice in this state under division (A)(4) of section 4761.11 of the Revised Code;~~

(11) ~~(9) Requirements for criminal records checks of applicants under section 4776.03 of the Revised Code;~~

(12) ~~Procedures for accepting and storing copies of hyperbaric technologist certifications filed with the board pursuant to division (A)(11) of section 4761.11 of the Revised Code.~~

~~(B) Determine~~ (C) The board shall determine the sufficiency of an applicant's qualifications for admission to the licensing examination or a reexamination, and for the issuance or renewal of a license or limited permit;

~~(C) Determine~~ .

(D) The board shall determine the respiratory care educational programs that are acceptable for fulfilling the requirements of division (A) of section 4761.04 of the Revised Code;

~~(D) Schedule, administer, and score the licensing examination or any reexamination for license renewal or reinstatement. The board shall administer the licensing examinations at least twice a year and notify applicants of the time and place of the examinations.~~

~~(E) Investigate complaints concerning alleged violations of section 4761.10 of the Revised Code or grounds for the suspension, permanent revocation, or refusal to issue licenses or limited permits under section 3123.47 or 4761.09 of the Revised Code. The board shall employ investigators who shall, under the direction of the executive director of the board, investigate complaints and make inspections and other inquiries as, in the judgment of the board, are appropriate to enforce sections 3123.41 to 3123.50, 4761.09, and 4761.10 of the Revised Code. Pursuant to an investigation and inspection, the investigators may review and audit records during normal business hours at the place of business of a licensee or person who is the subject of a complaint filed with the board or at any place where the records are kept.~~

~~Except when required by court order, the board and its employees shall not disclose confidential information obtained during an investigation or identifying information about any person~~

~~who files a complaint with the board.~~

~~The (1) The board shall investigate evidence that appears to show that a person has violated any provision of this chapter or any rule adopted under it. Any person may report to the board in a signed writing any information that the person may have that appears to show a violation of any provision of this chapter or any rule adopted under it. In the absence of bad faith, any person who reports information of that nature or who testifies before the board in any adjudication conducted under Chapter 119. of the Revised Code shall not be liable in damages in a civil action as a result of the report or testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and shall be recorded by the board.~~

~~(2) Investigations of alleged violations of this chapter or any rule adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4761.012 of the Revised Code. The president may designate another member of the board to supervise the investigation in place of the supervising member. No member of the board who supervises the investigation of a case shall participate in further adjudication of the case.~~

~~(3) In investigating a possible violation of this chapter or any rule adopted under it, the board may hear testimony in matters relating to the duties imposed upon it and issue subpoenas pursuant to an investigation. The president and secretary of the board may, administer oaths, question witnesses, conduct interviews, order the taking of depositions, inspect and copy any books, accounts, papers, records, or documents, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board.~~

~~Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or any rule adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.~~

~~On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.~~

~~A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence, usual place of business, or address on file with the board. When serving a subpoena to an applicant for or the holder of a license or limited permit issued under this chapter, service of the subpoena may be made by certified mail, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery. If the person being served refuses to accept the subpoena or is not located, service may be made to an attorney who notifies the board that the attorney is representing the person.~~

~~A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage~~

provided for under section 119.094 of the Revised Code.

~~(F) Conduct hearings; The board shall keep records of its proceedings; and do other things as are necessary and proper to carry out and enforce the provisions of this chapter;~~

~~(G) Maintain; The board shall maintain and publish, and make available upon request, for a fee not to exceed the actual cost of printing and mailing on its internet web site all of the following:~~

~~(1) The requirements for the issuance of licenses and limited permits under this chapter and rules adopted by the board;~~

~~(2) A list of the names and locations of the institutions that each year granted degrees or certificates of completion in respiratory care;~~

~~(3) After the administration of each examination, a list of persons who passed the examination.~~

~~(H) Submit to the governor and to the general assembly each year a report of all of its official actions during the preceding year, together with any findings and recommendations with regard to the improvement of the profession of respiratory care.~~

Sec. 4761.032. (A) The state medical board shall appoint a respiratory care advisory council for the purpose of advising the board on issues relating to the practice of respiratory care. The advisory council shall consist of not more than seven individuals knowledgeable in the area of respiratory care.

A majority of the council members shall be individuals licensed under this chapter who are actively engaged in the practice of respiratory care. The board shall include all of the following on the council:

(1) One physician who is a member of the state medical board;

(2) One physician who has clinical training and experience in pulmonary disease;

(3) One individual who is not affiliated with any health care profession, who shall be appointed to represent the interest of consumers.

The Ohio state medical association, or its successor organization, may nominate not more than three individuals for consideration by the board in appointing the physician member described in division (A)(2) of this section.

The Ohio society for respiratory care, or its successor organization, may nominate not more than three individuals for consideration by the board in appointing any member of the council other than the physician members described in divisions (A)(1) and (2) of this section.

(B) Not later than ninety days after the effective date of this section January 21, 2018, the board shall make initial appointments to the council. Members-Initial members shall serve three-year staggered terms of office in accordance with rules adopted of one, two, or three years, as selected by the board. Thereafter, terms of office shall be for three years, with each term ending on the same day of the same month as the term that it succeeds. A council member shall continue in office subsequent to the expiration date of the member's term until a successor is appointed and takes office, or until a period of sixty days has elapsed, whichever occurs first. Each council member shall hold office from the date of appointment until the end of the term for which the member was appointed.

With approval from the director of administrative services, members may receive an amount fixed under division (J) of section 124.15 of the Revised Code for each day the member is performing the member's official duties and (C) Members shall serve without compensation, but shall



be reimbursed for actual and necessary expenses incurred in performing ~~those~~their official duties.

(D) The council shall meet at least four times each year and at such other times as may be necessary to carry out its responsibilities.

(E) The council may submit to the board recommendations concerning all of the following:

(1) Requirements for issuing a license to practice as a respiratory care professional or as a limited permit holder, including the educational and experience requirements that must be met to receive the license or permit;

(2) Existing and proposed rules pertaining to the practice of respiratory care and the administration and enforcement of this chapter;

(3) Standards for the approval of educational programs required to qualify for licensure and continuing education programs for licensure renewal;

(4) Policies related to the issuance and renewal of licenses and limited permits;

(5) Fees for the issuance and renewal of a license to practice respiratory care as a licensee or as a limited permit holder;

(6) Standards of practice and ethical conduct in the practice of respiratory care;

(7) The safe and effective practice of respiratory care, including scope of practice and minimal standards of care.

Sec. 4761.04. (A) Except as provided in division (B) of this section, no person is eligible for licensure as a respiratory care professional unless the person has shown, to the satisfaction of the state medical board, all of the following:

(1) That the person is of good moral character;

(2) That the person has successfully completed the requirements of an educational program approved by the board that includes instruction in the biological and physical sciences, pharmacology, respiratory care theory, procedures, and clinical practice, and cardiopulmonary rehabilitation techniques;

(3) That the person has passed an examination ~~administered~~approved under rules adopted by the board that tests the applicant's knowledge of the basic and clinical sciences relating to respiratory care theory and practice, professional skills and judgment in the utilization of respiratory care techniques, and such other subjects as the board considers useful in determining fitness to practice.

~~(B) The board may waive the requirements of division (A) of this section with respect to any applicant who presents proof of current licensure in another state whose standards for licensure are at least equal to those in effect in this state on the date of application. The board may waive the requirements of divisions (A)(2) and (3) of this section with respect to any applicant who presents proof of having successfully completed any examination recognized by the board as meeting the requirements of division (A)(3) of this section. Any person licensed to practice respiratory care by the former Ohio respiratory care board before January 21, 2018, may continue to practice respiratory care in this state under that license if the person continues to meet the requirements to renew a license under this chapter and renews the license through the state medical board.~~

The state medical board may take any of the following actions, as provided in section 4761.09 of the Revised Code, against the holder of a license to practice respiratory care issued before January 21, 2018, by the former Ohio respiratory care board:

(1) Limit, revoke, or suspend the holder's license;

(2) Refuse to renew or reinstate the holder's license;

(3) Reprimand the holder or place the holder on probation.

Sec. 4761.05. (A) The state medical board shall issue a license to any applicant who complies with the requirements of section 4761.04 of the Revised Code, files the prescribed application form, and pays the fee or fees required under section 4761.07 of the Revised Code. The license entitles the holder to practice respiratory care. ~~The licensee shall display the license in a conspicuous place at the licensee's principal place of business.~~

(B)(1) The board shall issue a limited permit to any applicant who meets the requirements of division (A)(1) of section 4761.04 of the Revised Code, ~~files the prescribed an application on a form furnished by the board,~~ pays the fee required under section 4761.07 of the Revised Code, and meets either of the following requirements:

(a) Is enrolled in and is in good standing in a respiratory care educational program approved by the board that meets the requirements of division (A)(2) of section 4761.04 of the Revised Code leading to a degree or certificate of completion or is a graduate of the program;

(b) Is employed as a provider of respiratory care in this state and was employed as a provider of respiratory care in this state prior to March 14, 1989.

(2) If no grounds apply under section 4761.09 of the Revised Code for denying a limited permit to the applicant and the applicant meets the requirements of division (B) of this section, the board shall issue a limited permit to the applicant.

The board shall maintain a register of all persons holding limited permits under this chapter. The limited permit authorizes the holder to provide respiratory care under the supervision of a respiratory care professional. A person issued a limited permit under division (B)(1)(a) of this section may practice respiratory care under the limited permit for not more than the earliest of the following:

(a) Three years after the date the limited permit is issued;

(b) One year following the date of receipt of a certificate of completion from a board-approved respiratory care education program;

(c) Until the holder discontinues participation in the educational program.

~~The board may extend the term of a limited permit in cases of unusual hardship. The holder seeking an extension shall petition the board in the form and manner prescribed by the board in rules adopted under section 4761.03 of the Revised Code.~~ This division does not require a student enrolled in an educational program leading to a degree or certificate of completion in respiratory care approved by the board to obtain a limited permit to perform any duties that are part of the required course of study.

(3) A person issued a limited permit under division (B)(1)(b) of this section may practice under a limited permit for not more than three years, except that this restriction does not apply to a permit holder who, on March 14, 1989, has been employed as a provider of respiratory care for an average of not less than twenty-five hours per week for a period of not less than five years by a hospital.

(4) The board may revoke a limited permit upon proof satisfactory to the board that the permit holder has engaged in practice in this state outside the scope of the permit, that the holder has engaged in unethical conduct, or that there are grounds for action against the holder under section 4761.09 of the Revised Code.

~~(C) All holders of licenses and limited permits~~ The holder of a license or limited permit issued under this section shall display, in a conspicuous place on their persons, information that identifies the type of authorization under which they practice either provide verification of licensure or permit status from the board's internet web site on request or prominently display a wall certificate in the license holder's office or place where the majority of the holder's practice is conducted.

Sec. 4761.06. (A) Each license to practice respiratory care shall be renewed biennially on or before the last day of June of every even-numbered year. Each limited permit to practice respiratory care shall be renewed annually. Each person holding a license or limited permit to practice respiratory care shall apply to the state medical board on the form and according to the schedule prescribed by the board for renewal of the license or limited permit. Licenses and limited permits shall be renewed in accordance with the standard renewal procedure of Chapter 4745. of the Revised Code. The state medical board shall renew a license upon the payment of the license renewal fee prescribed under section 4761.07 of the Revised Code and proof of satisfactory completion of the continuing education or reexamination requirements of division (B) of this section. ~~The~~

At least one month before a license expires, the board shall provide a renewal notice. Failure of any person to receive a notice of renewal from the board shall not excuse the person from the requirements contained in this section. Each person holding a license shall give notice to the board of a change in the license holder's residence address, business address, or electronic mail address not later than thirty days after the change occurs.

The board shall renew a limited permit upon payment of the limited permit renewal fee prescribed under section 4761.07 of the Revised Code and submission of one of the following:

(1) If the limited permit was issued on the basis of division (B)(1)(a) of section 4761.05 of the Revised Code, proof acceptable to the board of enrollment and good standing in an educational program that meets the requirements of division (A)(2) of section 4761.04 of the Revised Code or of graduation from such a program;

(2) If the limited permit was issued on the basis of division (B)(1)(b) of section 4761.05 of the Revised Code, proof acceptable to the board of employment as a provider of respiratory care under the supervision of a respiratory care professional.

(B) On and after March 14, 1991, and every year thereafter, on or before the annual renewal date, the holder of a limited permit issued under division (B)(1)(b) of section 4761.05 of the Revised Code shall submit proof to the board that the holder has satisfactorily completed the number of hours of continuing education required by the board, which shall not be less than three nor more than ten hours of continuing education acceptable to the board.

On or before the biennial renewal date, a license holder shall submit proof to the board that the license holder has satisfactorily completed the number of hours of continuing education required by the board, which shall be not less than six nor more than twenty hours of continuing education acceptable to the board, or has passed a reexamination in accordance with the board's renewal requirements. ~~The board may waive all or part of the continuing education requirement for a license holder who has held the license for less than two years.~~

(C)(1) A license to practice respiratory care that is not renewed on or before its expiration date is automatically suspended on its expiration date. Continued practice after suspension shall be considered as practicing in violation of section 4761.10 of the Revised Code.

(2) If a license has been suspended pursuant to division (C)(1) of this section for two years or less, it may be reinstated. The state medical board shall reinstate the license upon the applicant's submission of a complete renewal application and payment of a reinstatement fee of one hundred dollars.

(3)(a) If a license has been suspended pursuant to division (C)(1) of this section for more than two years, it may be restored. The board may restore the license upon an applicant's submission of a complete restoration application and a restoration fee of one hundred twenty-five dollars and compliance with sections 4776.01 to 4776.04 of the Revised Code. The board shall not restore a license unless the board, in its discretion, decides that the results of the criminal records check do not make the applicant ineligible for a license issued pursuant to division (A) of this section.

(b) The board may impose terms and conditions for the restoration, including any one or more of the following:

(i) Requiring the applicant to pass an oral or written examination, or both, to determine the applicant's present fitness to resume practice;

(ii) Requiring the applicant to obtain additional training and to pass an examination upon completion of such training;

(iii) Restricting or limiting the extent, scope, or type of practice of the applicant.

Sec. 4761.07. (A) The state medical board shall charge any license applicant or holder who is to take an examination required under division (A)(3) of section 4761.04 or a reexamination required under division (B) of section 4761.06 of the Revised Code for license renewal or under section 4761.09 of the Revised Code for license reinstatement, a nonrefundable examination fee, not to exceed the amount necessary to cover the expense of administering the examination. The license applicant or holder shall pay the fee at the time of application for licensure or renewal.

(B) The board shall establish the following additional nonrefundable fees and penalty:

(1) An initial license fee, ~~not to exceed~~ of seventy-five dollars;

(2) A biennial license renewal fee, ~~not to exceed one hundred~~ of seventy-five dollars;

(3) A limited permit fee, ~~not to exceed~~ of twenty dollars;

(4) A limited permit renewal fee, ~~not to exceed~~ of ten dollars;

(5) A late renewal penalty, ~~not to exceed fifty per cent of the renewal fee;~~

~~(6) A fee for accepting and storing hyperbaric technologist certifications filed with the board under division (A)(11) of section 4761.11 of the Revised Code, not to exceed twenty dollars duplicate license or limited permit fee of thirty-five dollars;~~

(6) In the case of a person holding a license issued under this chapter, a license verification fee of fifty dollars.

(C) Notwithstanding division (B)(4) of this section, after the third renewal of a limited permit that meets the exception in division (B)(3) of section 4761.05 of the Revised Code, the limited permit renewal fee shall be ~~one-half the amount of the biennial license renewal fee established under division (B)(2) of this section and section 4761.08 of the Revised Code~~ thirty-five dollars.

~~(D) The board shall adjust the fees biennially and within the limits established by division (B) of this section to provide sufficient revenues to meet its expenses.~~

~~(E) The board may, by rule, provide for the waiver of all or part of a license fee when the license is issued less than eighteen months before its expiration date.~~

~~(F)~~ All fees received by the board shall be deposited into the state treasury to the credit of the state medical board operating fund pursuant to section 4731.24 of the Revised Code.

Sec. 4761.09. (A) ~~The state medical board may refuse to issue or renew a license or a limited permit, may issue a reprimand, may suspend or permanently revoke a license or limited permit, or may place a license or limited permit holder on probation, on any of the following grounds, by an affirmative vote of not fewer than six members, shall, to the extent permitted by law, limit, revoke, or suspend an individual's license or limited permit, refuse to issue a license or limited permit to an individual, refuse to renew a license or limited permit, refuse to reinstate a license or limited permit, or reprimand or place on probation the holder of a license or limited permit for one or more of the following reasons:~~

~~(1) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for an offense involving moral turpitude or of a felony, in which case a certified copy of the court record shall be conclusive evidence of the matter, a felony;~~

~~(2) Violating Commission of an act that constitutes a felony in this state, regardless of the jurisdiction in which the act was committed;~~

~~(3) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor committed in the course of practice;~~

~~(4) Commission of an act in the course of practice that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~

~~(5) A plea of guilty to, a judicial finding of guilt of, or a judicial finding of eligibility for intervention in lieu of conviction for, a misdemeanor involving moral turpitude;~~

~~(6) Commission of an act involving moral turpitude that constitutes a misdemeanor in this state, regardless of the jurisdiction in which the act was committed;~~

~~(7) Except when civil penalties are imposed under section 4761.091 of the Revised Code, violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter or an order or rule of the rules adopted by the board;~~

~~(3) Assisting another person in that person's violation of any provision of this chapter or an order or rule of the board;~~

~~(4) Obtaining a license or limited permit by means of fraud, (8) Making a false, fraudulent, deceptive, or misleading representation, or concealment of material facts or making any other material misrepresentation to the board statement in the solicitation of or advertising for patients; in relation to the practice of respiratory care; or in securing or attempting to secure any license or permit issued by the board under this chapter.~~

~~As used in division (A)(8) of this section, "false, fraudulent, deceptive, or misleading statement" means a statement that includes a misrepresentation of fact, is likely to mislead or deceive because of a failure to disclose material facts, is intended or is likely to create false or unjustified expectations of favorable results, or includes representations or implications that in reasonable probability will cause an ordinarily prudent person to misunderstand or be deceived.~~

~~(9) Committing fraud during the administration of the examination for a license to practice or committing fraud, misrepresentation, or deception in applying for, renewing, or securing any license or permit issued by the board;~~

(10) A departure from, or failure to conform to, minimal standards of care of similar practitioners under the same or similar circumstances, whether or not actual injury to a patient is established;

~~(5) Being guilty of negligence or gross misconduct in the practice of respiratory care;~~

~~(6)-(11) Violating the standards of ethical conduct adopted by the board, in the practice of respiratory care;~~

~~(7) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public;~~

~~(8) Using any dangerous drug, as defined in section 4729.01 of the Revised Code, or alcohol to the extent that the use impairs the ability to practice respiratory care at an acceptable level of competency;~~

~~(9) Practicing respiratory care while mentally incompetent;~~

(10) Accepting commissions, rebates, or other forms of remuneration for patient referrals(12) The obtaining of, or attempting to obtain, money or anything of value by fraudulent misrepresentations in the course of practice;

(13) Violation of the conditions of limitation placed by the board upon a license or permit;

(14) Inability to practice according to acceptable and prevailing standards of care by reason of mental illness or physical illness, including physical deterioration that adversely affects cognitive, motor, or perceptive skills;

(15) Any of the following actions taken by an agency responsible for authorizing, certifying, or regulating an individual to practice a health care occupation or provide health care services in this state or another jurisdiction, for any reason other than the nonpayment of fees: the limitation, revocation, or suspension of an individual's license; acceptance of an individual's license surrender; denial of a license; refusal to renew or reinstate a license; imposition of probation; or issuance of an order of censure or other reprimand;

(16) The revocation, suspension, restriction, reduction, or termination of practice privileges by the United States department of defense or department of veterans affairs;

(17) Termination or suspension from participation in the medicare or medicaid programs by the department of health and human services or other responsible agency for any act or acts that also would constitute a violation of division (A)(10), (12), or (14) of this section;

(18) Impairment of ability to practice according to acceptable and prevailing standards of care because of habitual or excessive use or abuse of drugs, alcohol, or other substances that impair ability to practice;

(19) Failure to cooperate in an investigation conducted by the board under division (E) of section 4761.03 of the Revised Code, including failure to comply with a subpoena or order issued by the board or failure to answer truthfully a question presented by the board in an investigative interview, an investigative office conference, at a deposition, or in written interrogatories, except that failure to cooperate with an investigation shall not constitute grounds for discipline under this section if a court of competent jurisdiction has issued an order that either quashes a subpoena or permits the individual to withhold the testimony or evidence in issue;

~~(11)-(20) Practicing in an area of respiratory care for which the person is clearly untrained or incompetent or practicing in a manner that conflicts with section 4761.17 of the Revised Code;~~

~~(12)~~ (21) Employing, directing, or supervising a person who is not authorized to practice respiratory care under this chapter in the performance of respiratory care procedures;

~~(13)~~ (22) Misrepresenting educational attainments or authorized functions for the purpose of obtaining some benefit related to the practice of respiratory care;

~~(14)~~ (23) Assisting suicide as defined in section 3795.01 of the Revised Code;

(24) Representing, with the purpose of obtaining compensation or other advantage as personal gain or for any other person, that an incurable disease or injury, or other incurable condition, can be permanently cured.

~~Before the board may take any action under this section, other than issuance of a summary suspension order under division (C) of this section, the executive director of the board shall prepare and file written charges with the board. Disciplinary actions taken by the board under division (A) of this section shall be taken pursuant to an adjudication under Chapter 119. of the Revised Code, except that in lieu of an adjudication, the board may enter into a consent agreement with an individual to resolve an allegation of a violation of this chapter or any rule adopted under it. A consent agreement, when ratified by an affirmative vote of not fewer than six members of the board, shall constitute the findings and order of the board with respect to the matter addressed in the agreement. If the board refuses to ratify a consent agreement, the admissions and findings contained in the consent agreement shall be of no effect.~~

A telephone conference call may be utilized for ratification of a consent agreement that revokes or suspends an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code.

~~(B) If the board orders a license or limited permit holder placed on probation, the order shall be accompanied by a written statement of the conditions under which the person may be restored to practice.~~

~~The person may reapply to the board for original issuance of a license after one year following the date the license was denied.~~

~~Except as otherwise provided in division (D) of this section, a person may apply to the board for the reinstatement of a license or limited permit after one year following the date of suspension or refusal to renew. The board may accept or refuse the application for reinstatement and may require that the applicant pass a reexamination as a condition of eligibility for reinstatement.~~

~~(C) If the president and secretary of the board determine that there is clear and convincing evidence that a license or limited permit holder has committed an act that is grounds for board action under division (A) of this section and that continued practice by the license or permit holder presents a danger of immediate and serious harm to the public, the president and secretary may recommend that the board suspend the license or limited permit without a prior hearing. The president and secretary shall submit in writing to the board the allegations causing them to recommend the suspension.~~

~~On review of the allegations, the board, by a vote of not less than seven of its members, may suspend a license or limited permit without a prior hearing. The board may review the allegations and vote on the suspension by a telephone conference call.~~

~~If the board votes to suspend a license or limited permit under this division, the board shall issue a written order of summary suspension to the license or limited permit holder in accordance~~

~~with section 119.07 of the Revised Code. If the license or limited permit holder requests a hearing by the board, the board shall conduct the hearing in accordance with Chapter 119. of the Revised Code. Notwithstanding section 119.12 of the Revised Code, a court of common pleas shall not grant a suspension of the board's order of summary suspension pending determination of an appeal filed under that section.~~

~~Any order of summary suspension issued under this division shall remain in effect until a final adjudication order issued by the board pursuant to division (A) of this section becomes effective. The board shall issue its final adjudication order regarding an order of summary suspension issued under this division not later than sixty days after completion of its hearing. Failure to issue the order within sixty days shall result in immediate dissolution of the suspension order, but shall not invalidate any subsequent, final adjudication order. Any action taken by the board under division (A) of this section resulting in a suspension from practice shall be accompanied by a written statement of the conditions under which the individual's license or permit may be reinstated. The board shall adopt rules governing conditions to be imposed for reinstatement. Reinstatement of a license or permit suspended pursuant to division (A) of this section requires an affirmative vote of not fewer than six members of the board.~~

~~(C) When the board refuses to grant or issue a license or permit to an applicant, revokes an individual's license or permit, refuses to renew an individual's license or permit, or refuses to reinstate an individual's license or permit, the board may specify that its action is permanent. An individual subject to a permanent action taken by the board is forever thereafter ineligible to hold a license or permit and the board shall not accept an application for reinstatement of the license or permit or for issuance of a new license or permit.~~

~~(D) If the board is required by Chapter 119. of the Revised Code to give notice of an opportunity for a hearing and if the individual subject to the notice does not timely request a hearing in accordance with section 119.07 of the Revised Code, the board is not required to hold a hearing, but may adopt, by an affirmative vote of not fewer than six of its members, a final order that contains the board's findings. In the final order, the board may order any of the sanctions identified under division (A) of this section.~~

~~(E) In enforcing division (A)(14) of this section, the board, upon a showing of a possible violation, may compel any individual authorized to practice by this chapter or who has submitted an application pursuant to this chapter to submit to a mental examination, physical examination, including an HIV test, or both a mental and a physical examination. The expense of the examination is the responsibility of the individual compelled to be examined. Failure to submit to a mental or physical examination or consent to an HIV test ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board finds an individual unable to practice because of the reasons set forth in division (A)(14) of this section, the board shall require the individual to submit to care, counseling, or treatment by physicians approved or designated by the board, as a condition for initial, continued, reinstated, or renewed authority to practice. An individual affected under this division shall be afforded an opportunity to demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards under the provisions of the individual's license or permit. For the~~



purpose of division (A)(14) of this section, any individual who applies for or receives a license or permit to practice under this chapter accepts the privilege of practicing in this state and, by so doing, shall be deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board, and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.

(F) For the purposes of division (A)(18) of this section, any individual authorized to practice by this chapter accepts the privilege of practicing in this state subject to supervision by the board. By filing an application for or holding a license or permit under this chapter, an individual shall be deemed to have given consent to submit to a mental or physical examination when ordered to do so by the board in writing, and to have waived all objections to the admissibility of testimony or examination reports that constitute privileged communications.

If it has reason to believe that any individual authorized to practice by this chapter or any applicant for a license or permit suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician who is qualified to conduct the examination and who is chosen by the board.

Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or permit or deny the individual's application and shall require the individual, as a condition for an initial, continued, reinstated, or renewed license or permit, to submit to treatment.

Before being eligible to apply for reinstatement of a license or permit suspended under this division, the impaired practitioner shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care under the provisions of the practitioner's license or permit. The demonstration shall include, but shall not be limited to, the following:

(1) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;

(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;

(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making the assessments and shall describe the basis for their determination.

The board may reinstate a license or permit suspended under this division after that demonstration and after the individual has entered into a written consent agreement.

When the impaired practitioner resumes practice, the board shall require continued monitoring of the individual. The monitoring shall include, but not be limited to, compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of perjury stating whether the

individual has maintained sobriety.

(G) If the secretary and supervising member determine both of the following, they may recommend that the board suspend an individual's license or permit without a prior hearing:

(1) That there is clear and convincing evidence that an individual has violated division (A) of this section;

(2) That the individual's continued practice presents a danger of immediate and serious harm to the public.

Written allegations shall be prepared for consideration by the board. The board, upon review of those allegations and by an affirmative vote of not fewer than six of its members, excluding the secretary and supervising member, may suspend a license or permit without a prior hearing. A telephone conference call may be utilized for reviewing the allegations and taking the vote on the summary suspension.

The board shall issue a written order of suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. The order shall not be subject to suspension by the court during pendency of any appeal filed under section 119.12 of the Revised Code. If the individual subject to the summary suspension requests an adjudicatory hearing by the board, the date set for the hearing shall be within fifteen days, but not earlier than seven days, after the individual requests the hearing, unless otherwise agreed to by both the board and the individual.

Any summary suspension imposed under this division shall remain in effect, unless reversed on appeal, until a final adjudicative order issued by the board pursuant to this section and Chapter 119. of the Revised Code becomes effective. The board shall issue its final adjudicative order within seventy-five days after completion of its hearing. A failure to issue the order within seventy-five days shall result in dissolution of the summary suspension order but shall not invalidate any subsequent, final adjudicative order.

~~(D) For purposes of this division, any individual who holds a license or permit issued under this chapter, or applies for a license or permit to practice respiratory care, is deemed to have given consent to submit to a mental or physical examination when directed to do so in writing by the board and to have waived all objections to the admissibility of testimony or examination reports that constitute a privileged communication.~~

~~For purposes of division (A)(8) of this section, if the board has reason to believe that any individual who holds a license or permit issued under this chapter or any applicant for a license or permit suffers such impairment, the board may compel the individual to submit to a mental or physical examination, or both. The expense of the examination is the responsibility of the individual compelled to be examined. Any mental or physical examination required under this division shall be undertaken by a treatment provider or physician qualified to conduct such examination and chosen by the board.~~

~~Failure to submit to a mental or physical examination ordered by the board constitutes an admission of the allegations against the individual unless the failure is due to circumstances beyond the individual's control, and a default and final order may be entered without the taking of testimony or presentation of evidence. If the board determines that the individual's ability to practice is impaired, the board shall suspend the individual's license or permit or deny the individual's application and shall require the individual, as a condition for initial, continued, reinstated, or~~

~~renewed licensure, to submit to treatment.~~

~~Before being eligible to apply for reinstatement of a license or permit suspended under this division, the respiratory care professional shall demonstrate to the board the ability to resume practice in compliance with acceptable and prevailing standards of care. The demonstration shall include the following:~~

~~(1) Certification from a treatment provider approved under section 4731.25 of the Revised Code that the individual has successfully completed any required inpatient treatment;~~

~~(2) Evidence of continuing full compliance with an aftercare contract or consent agreement;~~

~~(3) Two written reports indicating that the individual's ability to practice has been assessed and that the individual has been found capable of practicing according to acceptable and prevailing standards of care. The reports shall be made by individuals or providers approved by the board for making such assessments and shall describe the basis for their determination.~~

~~The board may reinstate a license or permit suspended under this division after such demonstration and after the individual has entered into a written consent agreement.~~

~~When the impaired respiratory care professional resumes practice, the board shall require continued monitoring of the respiratory care professional. The monitoring shall include compliance with the written consent agreement entered into before reinstatement or with conditions imposed by board order after a hearing, and, upon termination of the consent agreement, submission to the board for at least two years of annual written progress reports made under penalty of falsification stating whether the respiratory care professional has maintained sobriety.~~

(H) For purposes of divisions (A)(2), (4), and (6) of this section, the commission of the act may be established by a finding by the board, pursuant to an adjudication under Chapter 119. of the Revised Code, that the individual committed the act. The board does not have jurisdiction under those divisions if the trial court renders a final judgment in the individual's favor and that judgment is based upon an adjudication on the merits. The board has jurisdiction under those divisions if the trial court issues an order of dismissal upon technical or procedural grounds.

(I) The sealing of conviction records by any court shall have no effect upon a prior board order entered under this section or upon the board's jurisdiction to take action under this section if, based upon a plea of guilty, a judicial finding of guilt, or a judicial finding of eligibility for intervention in lieu of conviction, the board issued a notice of opportunity for a hearing prior to the court's order to seal the records. The board shall not be required to seal, destroy, redact, or otherwise modify its records to reflect the court's sealing of conviction records.

(J) If the board takes action under division (A)(1), (3), or (5) of this section, and the judicial finding of guilt, guilty plea, or judicial finding of eligibility for intervention in lieu of conviction is overturned on appeal, upon exhaustion of the criminal appeal, a petition for reconsideration of the order may be filed with the board along with appropriate court documents. Upon receipt of a petition for reconsideration and supporting court documents, the board shall reinstate the individual's license or permit. The board may then hold an adjudication under Chapter 119. of the Revised Code to determine whether the individual committed the act in question. Notice of an opportunity for a hearing shall be given in accordance with Chapter 119. of the Revised Code. If the board finds, pursuant to an adjudication held under this division, that the individual committed the act or if no hearing is requested, the board may order any of the sanctions identified under division (A) of this

section.

(K) The license or permit issued to an individual under this chapter and the individual's practice in this state are automatically suspended as of the date the individual pleads guilty to, is found by a judge or jury to be guilty of, or is subject to a judicial finding of eligibility for intervention in lieu of conviction in this state or treatment or intervention in lieu of conviction in another jurisdiction for any of the following criminal offenses in this state or a substantially equivalent criminal offense in another jurisdiction: aggravated murder, murder, voluntary manslaughter, felonious assault, kidnapping, rape, sexual battery, gross sexual imposition, aggravated arson, aggravated robbery, or aggravated burglary. Continued practice after suspension shall be considered practicing without a license or permit.

The board shall notify the individual subject to the suspension by certified mail or in person in accordance with section 119.07 of the Revised Code. If an individual whose license or permit is automatically suspended under this division fails to make a timely request for an adjudication under Chapter 119. of the Revised Code, the board shall enter a final order permanently revoking the individual's license or permit.

(L) Notwithstanding any other provision of the Revised Code, all of the following apply:

(1) The surrender of a license or permit issued under this chapter shall not be effective unless or until accepted by the board. A telephone conference call may be utilized for acceptance of the surrender of an individual's license or permit. The telephone conference call shall be considered a special meeting under division (F) of section 121.22 of the Revised Code. Reinstatement of a license or permit surrendered to the board requires an affirmative vote of not fewer than six members of the board.

(2) An application for a license or permit made under the provisions of this chapter may not be withdrawn without approval of the board.

(3) Failure by an individual to renew a license or permit in accordance with this chapter shall not remove or limit the board's jurisdiction to take any disciplinary action under this section against the individual.

(4) At the request of the board, a license or permit holder shall immediately surrender to the board a license or permit that the board has suspended, revoked, or permanently revoked.

Sec. 4761.091. (A)(1) If the holder of a license or limited permit issued under this chapter violates any section of this chapter, other than continuing education requirements set forth in section 4761.06 of the Revised Code, or violates any rule adopted under this chapter, the state medical board may, pursuant to an adjudication under Chapter 119. of the Revised Code and an affirmative vote of not fewer than six of its members, impose a civil penalty. The amount of the civil penalty shall be determined by the board in accordance with the guidelines adopted under division (A)(2) of this section. The civil penalty may be in addition to any other action the board may take under section 4761.09 of the Revised Code.

(2) The board shall adopt and may amend guidelines regarding the amounts of civil penalties to be imposed under this section. Adoption or amendment of the guidelines requires the approval of not fewer than six board members. Under the guidelines, no civil penalty amount shall exceed twenty thousand dollars.

(B) Amounts received from payment of civil penalties imposed under this section shall be

deposited by the board in accordance with section 4731.24 of the Revised Code. Amounts received from payment of civil penalties imposed for violations of division (A)(18) of section 4761.09 of the Revised Code shall be used by the board solely for investigations, enforcement, and compliance monitoring.

Sec. 4761.10. (A) No person shall offer or render respiratory care services, or represent that the person is a respiratory care professional, respiratory therapist, respiratory technologist, respiratory care technician, respiratory practitioner, inhalation therapist, inhalation technologist, or inhalation therapy technician, or to have any similar title or to provide these services under a similar description, unless the person holds a license or limited permit issued under this chapter. No partnership, association, or corporation shall advertise or otherwise offer to provide or convey the impression that it is providing respiratory care unless an individual holding a license or limited permit issued under this chapter is employed by or under contract with the partnership, association, or corporation and will be performing the respiratory care services to which reference is made.

(B) Notwithstanding the provisions of division (A) of this section, all of the following apply:

(1) In the case of a hospital or nursing facility, some limited aspects of respiratory care services such as measuring blood pressure and taking blood samples may be performed by persons demonstrating current competence in such procedures, as long as the person acts under the direction of a physician or the delegation of a registered nurse and the person does not represent that the person is engaged in the practice of respiratory care. The above limited aspects of respiratory care do not include any of the following: the administration of aerosol medication, the maintenance of patients on mechanical ventilators, aspiration, and the application and maintenance of artificial airways.

(2) In the case of a facility, institution, or other setting that exists for a purpose substantially other than the provision of health care, if nursing tasks are delegated by a registered nurse as provided in Chapter 4723. of the Revised Code and the rules adopted under it, respiratory care tasks may be performed under that delegation by persons demonstrating current competence in performing the tasks, as long as the person does not represent that the person is engaged in the practice of respiratory care.

(3) A polysomnographic technologist credentialed by an organization the state medical board recognizes, a trainee under the direct supervision of a polysomnographic technologist credentialed by an organization the board recognizes, or a person the board recognizes as being eligible to be credentialed as a polysomnographic technologist may perform the respiratory care tasks specified in rules adopted under section 4761.03 of the Revised Code, as long as both of the following apply:

(a) The tasks are performed in the diagnosis and therapeutic intervention of sleep-related breathing disorders and under the general supervision of a physician.

(b) The person performing the tasks does not represent that the person is engaged in the practice of respiratory care.

~~(C) If the state medical board finds that any person, including any partnership, association, or corporation, has engaged or is engaging in any activity or conduct that is prohibited under division (A) of this section or rules of the board, or that is grounds for the denial, suspension, or permanent revocation of a person's license under section 4761.09 of the Revised Code, it may apply to the court of common pleas in the county in which the violation occurred for an order restraining the unlawful activity or conduct, including the continued practice of respiratory care. Upon a showing that the law~~

~~or rule has been violated, or the person has engaged in conduct constituting such grounds, the court may issue an injunction or other appropriate restraining order. The attorney general, the prosecuting attorney of any county in which the offense was committed or the offender resides, the state medical board, or any other person having knowledge of a person who either directly or by complicity is in violation of this section, may, in accordance with provisions of the Revised Code governing injunctions, maintain an action in the name of the state to enjoin any person from engaging either directly or by complicity in the unlawful activity by applying for an injunction in the Franklin county court of common pleas or any other court of competent jurisdiction.~~

~~Prior to application for such injunction, the secretary of the state medical board shall notify the person allegedly engaged either directly or by complicity in the unlawful activity by registered mail that the secretary has received information indicating that this person is so engaged. The person shall answer the secretary within thirty days showing that the person is either properly licensed for the stated activity or that the person is not in violation of this chapter. If the answer is not forthcoming within thirty days after notice by the secretary, the secretary shall request that the attorney general, the prosecuting attorney of the county in which the offense was committed or the offender resides, or the state medical board proceed as authorized in this section.~~

~~Upon the filing of a verified petition in court, the court shall conduct a hearing on the petition and shall give the same preference to this proceeding as is given all proceedings under Chapter 119. of the Revised Code, irrespective of the position of the proceeding on the calendar of the court. Injunction proceedings shall be in addition to, and not in lieu of, all penalties and other remedies provided under this chapter.~~

Sec. 4761.11. (A) Nothing in this chapter shall be construed to prevent or restrict the practice, services, or activities of any person who:

(1) Is a health care professional licensed by this state providing respiratory care services included in the scope of practice established by the license held, as long as the person does not represent that the person is engaged in the practice of respiratory care;

(2) Is employed as a respiratory care professional by an agency of the United States government and provides respiratory care solely under the direction or control of the employing agency;

(3) Is a student enrolled in a respiratory care education program approved by the state medical board leading to a certificate of completion in respiratory care and is performing duties that are part of a supervised course of study;

~~(4) Is a nonresident of this state practicing or offering to practice respiratory care, if the respiratory care services are offered for not more than thirty days in a year, services are provided under the supervision of a respiratory care professional licensed under this chapter, and the nonresident registers with the board in accordance with rules adopted by the board under section 4761.03 of the Revised Code and meets either of the following requirements:-~~

~~(a) Qualifies for licensure under this chapter, except for passage of the examination required under division (A)(3) of section 4761.04 of the Revised Code;-~~

~~(b) Holds a valid license issued by a state that has licensure requirements considered by the board to be comparable to those of this state and has not been issued a license in another state that has been revoked or is currently under suspension or on probation.-~~

~~(5) Provides respiratory care only to relatives or in medical emergencies;~~

~~(6) Provides gratuitous care to friends or personal family members;~~

~~(7) Provides only self care;~~

~~(8) Is employed in the office of a physician and renders medical assistance under the physician's direct supervision without representing that the person is engaged in the practice of respiratory care;~~

~~(9)~~ (5) Is employed in a clinical chemistry or arterial blood gas laboratory and is supervised by a physician without representing that the person is engaged in the practice of respiratory care;

~~(10)~~ (6) Is engaged in the practice of respiratory care as an employee of a person or governmental entity located in another state and provides respiratory care services for less than seventy-two hours to patients being transported into, out of, or through this state;

~~(11)~~ (7) Is employed as a certified hyperbaric technologist, has filed with the board a copy of the person's current certification as a hyperbaric technologist in accordance with the rules adopted by the board under section 4761.03 of the Revised Code, has paid the fee established pursuant to section 4761.07 of the Revised Code, and administers hyperbaric oxygen therapy under the direct supervision of a physician, a podiatrist acting in compliance with section 4731.511 of the Revised Code, a physician assistant, or an advanced practice registered nurse and without representing that the person is engaged in the practice of respiratory care.

As used in division (A)(7) of this section:

(a) "Certified hyperbaric technologist" means a person who is certified as a hyperbaric technologist by the national board of diving and hyperbaric medical technology or its successor organization.

(b) "Hyperbaric oxygen therapy" means the administration of pure oxygen in a pressurized room or chamber, except that it does not include ventilator management.

(B) Nothing in this chapter shall be construed to prevent any person from advertising, describing, or offering to provide respiratory care or billing for respiratory care when the respiratory care services are provided by a health care professional licensed by this state practicing within the scope of practice established by the license held. Nothing in this chapter shall be construed to prevent a hospital or nursing facility from advertising, describing, or offering to provide respiratory care, or billing for respiratory care rendered by a person licensed under this chapter or persons who may provide limited aspects of respiratory care or respiratory care tasks pursuant to division (B) of section 4761.10 of the Revised Code.

(C) Notwithstanding division (A) of section 4761.10 of the Revised Code, in a life-threatening situation, in the absence of licensed personnel, unlicensed persons shall not be prohibited from taking life-saving measures.

(D) Nothing in this chapter shall be construed as authorizing a respiratory care professional to practice medicine and surgery or osteopathic medicine and surgery. This division does not prohibit a respiratory care professional from administering topical or intradermal medications for the purpose of producing localized decreased sensation as part of a procedure or task that is within the scope of practice of a respiratory care professional.

Sec. 4761.14. An employer that disciplines or terminates the employment of a respiratory care professional or individual holding a limited permit issued under this chapter because of conduct

that would be grounds for disciplinary action under section 4761.09 of the Revised Code shall, not later than sixty days after the discipline or termination, report the action to the state medical board. The report shall state the name of the respiratory care professional or individual holding the limited permit and the reason the employer took the action. If an employer fails to report to the board, the board may seek an order from a the Franklin county court of common pleas, or any other court of competent jurisdiction, compelling submission of the report.

Sec. 4761.19. A respiratory care professional, professional association or society of respiratory care professionals, physician, or professional association or society of physicians that believes a violation of division (A)(18) of section 4761.09 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the state medical board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired respiratory care professional to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

In the absence of fraud or bad faith, a professional association or society of respiratory care professionals that sponsors a committee or program to provide peer assistance to a respiratory care professional with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a respiratory care professional to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4762.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4762.17 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of



witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is an oriental medicine practitioner or acupuncturist, service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for under section 119.094 of the Revised Code.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific

information from its records.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training ~~council~~ commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of certificate to practice, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4762.16. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical center, or similar facility, against any individual holding a valid certificate to practice as an oriental medicine practitioner or valid certificate to practice as an acupuncturist, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. Upon request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against an oriental medicine practitioner or acupuncturist.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

~~(B) An~~ (1) Except as provided in division (B)(2) of this section, an oriental medicine practitioner or acupuncturist, professional association or society of oriental medicine practitioners or acupuncturists, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information upon which the belief is based. ~~This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to an oriental medicine practitioner or acupuncturist participating in treatment or aftercare for substance abuse as long as the practitioner or acupuncturist maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent,~~

~~or representative of the provider has no reason to believe that the practitioner or acupuncturist has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of oriental medicine practitioners or acupuncturists to provide peer assistance to oriental medicine practitioners or acupuncturists with substance abuse problems with respect to an oriental medicine practitioner or acupuncturist who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the individual cooperates with the referral for examination and with any determination that the individual should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the individual has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.~~

(2) An oriental medicine practitioner or acupuncturist, professional association or society of oriental medicine practitioners or acupuncturists, physician, or professional association or society of physicians that believes a violation of division (B)(6) of section 4762.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of oriental medicine practitioners or acupuncturists that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against an individual.

(D) Any insurer providing professional liability insurance to any person holding a valid certificate to practice as an oriental medicine practitioner or valid certificate to practice as an acupuncturist or any other entity that seeks to indemnify the professional liability of an oriental medicine practitioner or acupuncturist shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took

place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the oriental medicine practitioner or acupuncturist.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving an oriental medicine practitioner, acupuncturist, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against an oriental medicine practitioner, acupuncturist, or supervising physician, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing an oriental medicine practitioner, acupuncturist, or supervising physician or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.

(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the acupuncturist. The oriental medicine practitioner or acupuncturist shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired oriental medicine practitioner or impaired acupuncturist to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of oriental medicine practitioners or acupuncturists that sponsors a committee or program to provide peer assistance to an oriental medicine practitioner or acupuncturist with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer an oriental medicine practitioner or acupuncturist to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4774.01. As used in this chapter:

(A) "Radiologist assistant" means an individual who assists a radiologist in the care of radiology patients by engaging in any of the activities authorized under section 4774.08 of the

Revised Code.

(B) "Radiologist" means a physician who has successfully completed an approved radiology training program, as specified in the accreditation requirements that must be met to qualify as graduate medical education ~~under, as defined in section 4731.091-4731.04~~ of the Revised Code.

(C) "Radiology" means the branch of medicine that deals with the use of radiation in diagnosis and treatment of disease or conditions.

(D) "Physician" means an individual authorized under Chapter 4731. of the Revised Code to practice medicine and surgery or osteopathic medicine and surgery.

(E) "General anesthesia," "deep sedation," "moderate sedation," and "minimal sedation" have the meanings specified by the state medical board in rules adopted under section 4774.11 of the Revised Code.

Sec. 4774.14. (A) The state medical board shall investigate evidence that appears to show that any person has violated this chapter or the rules adopted under it. Any person may report to the board in a signed writing any information the person has that appears to show a violation of any provision of this chapter or the rules adopted under it. In the absence of bad faith, a person who reports such information or testifies before the board in an adjudication conducted under Chapter 119. of the Revised Code shall not be liable for civil damages as a result of reporting the information or providing testimony. Each complaint or allegation of a violation received by the board shall be assigned a case number and be recorded by the board.

(B) Investigations of alleged violations of this chapter or rules adopted under it shall be supervised by the supervising member elected by the board in accordance with section 4731.02 of the Revised Code and by the secretary as provided in section 4774.17 of the Revised Code. The board's president may designate another member of the board to supervise the investigation in place of the supervising member. A member of the board who supervises the investigation of a case shall not participate in further adjudication of the case.

(C) In investigating a possible violation of this chapter or the rules adopted under it, the board may administer oaths, order the taking of depositions, issue subpoenas, and compel the attendance of witnesses and production of books, accounts, papers, records, documents, and testimony, except that a subpoena for patient record information shall not be issued without consultation with the attorney general's office and approval of the secretary and supervising member of the board. Before issuance of a subpoena for patient record information, the secretary and supervising member shall determine whether there is probable cause to believe that the complaint filed alleges a violation of this chapter or the rules adopted under it and that the records sought are relevant to the alleged violation and material to the investigation. The subpoena may apply only to records that cover a reasonable period of time surrounding the alleged violation.

On failure to comply with any subpoena issued by the board and after reasonable notice to the person being subpoenaed, the board may move for an order compelling the production of persons or records pursuant to the Rules of Civil Procedure.

A subpoena issued by the board may be served by a sheriff, the sheriff's deputy, or a board employee designated by the board. Service of a subpoena issued by the board may be made by delivering a copy of the subpoena to the person named therein, reading it to the person, or leaving it at the person's usual place of residence. When the person being served is a radiologist assistant,

service of the subpoena may be made by certified mail, restricted delivery, return receipt requested, and the subpoena shall be deemed served on the date delivery is made or the date the person refuses to accept delivery.

A sheriff's deputy who serves a subpoena shall receive the same fees as a sheriff. Each witness who appears before the board in obedience to a subpoena shall receive the fees and mileage provided for witnesses in civil cases in the courts of common pleas.

(D) All hearings and investigations of the board shall be considered civil actions for the purposes of section 2305.252 of the Revised Code.

(E) Information received by the board pursuant to an investigation is confidential and not subject to discovery in any civil action.

The board shall conduct all investigations and proceedings in a manner that protects the confidentiality of patients and persons who file complaints with the board. The board shall not make public the names or any other identifying information about patients or complainants unless proper consent is given.

The board may share any information it receives pursuant to an investigation, including patient records and patient record information, with law enforcement agencies, other licensing boards, and other governmental agencies that are prosecuting, adjudicating, or investigating alleged violations of statutes or administrative rules. An agency or board that receives the information shall comply with the same requirements regarding confidentiality as those with which the state medical board must comply, notwithstanding any conflicting provision of the Revised Code or procedure of the agency or board that applies when it is dealing with other information in its possession. In a judicial proceeding, the information may be admitted into evidence only in accordance with the Rules of Evidence, but the court shall require that appropriate measures are taken to ensure that confidentiality is maintained with respect to any part of the information that contains names or other identifying information about patients or complainants whose confidentiality was protected by the state medical board when the information was in the board's possession. Measures to ensure confidentiality that may be taken by the court include sealing its records or deleting specific information from its records.

(F) The state medical board shall develop requirements for and provide appropriate initial training and continuing education for investigators employed by the board to carry out its duties under this chapter. The training and continuing education may include enrollment in courses operated or approved by the Ohio peace officer training ~~council~~ commission that the board considers appropriate under conditions set forth in section 109.79 of the Revised Code.

(G) On a quarterly basis, the board shall prepare a report that documents the disposition of all cases during the preceding three months. The report shall contain the following information for each case with which the board has completed its activities:

- (1) The case number assigned to the complaint or alleged violation;
- (2) The type of certificate, if any, held by the individual against whom the complaint is directed;
- (3) A description of the allegations contained in the complaint;
- (4) The disposition of the case.

The report shall state how many cases are still pending, and shall be prepared in a manner

that protects the identity of each person involved in each case. The report is a public record for purposes of section 149.43 of the Revised Code.

Sec. 4774.16. (A) Within sixty days after the imposition of any formal disciplinary action taken by any health care facility, including a hospital, health care facility operated by a health insuring corporation, ambulatory surgical facility, or similar facility, against any individual holding a valid certificate to practice as a radiologist assistant, the chief administrator or executive officer of the facility shall report to the state medical board the name of the individual, the action taken by the facility, and a summary of the underlying facts leading to the action taken. On request, the board shall be provided certified copies of the patient records that were the basis for the facility's action. Prior to release to the board, the summary shall be approved by the peer review committee that reviewed the case or by the governing board of the facility.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a health care facility from taking disciplinary action against a radiologist assistant.

In the absence of fraud or bad faith, no individual or entity that provides patient records to the board shall be liable in damages to any person as a result of providing the records.

~~(B)–A(1) Except as provided in division (B)(2) of this section, a radiologist assistant, professional association or society of radiologist assistants, physician, or professional association or society of physicians that believes a violation of any provision of this chapter, Chapter 4731. of the Revised Code, or rule of the board has occurred shall report to the board the information on which the belief is based. This division does not require any treatment provider approved by the board under section 4731.25 of the Revised Code or any employee, agent, or representative of such a provider to make reports with respect to a radiologist assistant participating in treatment or aftercare for substance abuse as long as the radiologist assistant maintains participation in accordance with the requirements of section 4731.25 of the Revised Code and the treatment provider or employee, agent, or representative of the provider has no reason to believe that the radiologist assistant has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances. This division does not require reporting by any member of an impaired practitioner committee established by a health care facility or by any representative or agent of a committee or program sponsored by a professional association or society of radiologist assistants to provide peer assistance to radiologist assistants with substance abuse problems with respect to a radiologist assistant who has been referred for examination to a treatment program approved by the board under section 4731.25 of the Revised Code if the radiologist assistant cooperates with the referral for examination and with any determination that the radiologist assistant should enter treatment and as long as the committee member, representative, or agent has no reason to believe that the radiologist assistant has ceased to participate in the treatment program in accordance with section 4731.25 of the Revised Code or has violated any provision of this chapter or rule adopted under it, other than being impaired by alcohol, drugs, or other substances.~~

(2) A radiologist assistant, professional association or society of radiologist assistants, physician, or professional association or society of physicians that believes a violation of division (B) (6) of section 4774.13 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the board under

section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

(C) Any professional association or society composed primarily of radiologist assistants that suspends or revokes an individual's membership for violations of professional ethics, or for reasons of professional incompetence or professional malpractice, within sixty days after a final decision, shall report to the board, on forms prescribed and provided by the board, the name of the individual, the action taken by the professional organization, and a summary of the underlying facts leading to the action taken.

The filing of a report with the board or decision not to file a report, investigation by the board, or any disciplinary action taken by the board, does not preclude a professional organization from taking disciplinary action against a radiologist assistant.

(D) Any insurer providing professional liability insurance to any person holding a valid certificate to practice as a radiologist assistant or any other entity that seeks to indemnify the professional liability of a radiologist assistant shall notify the board within thirty days after the final disposition of any written claim for damages where such disposition results in a payment exceeding twenty-five thousand dollars. The notice shall contain the following information:

- (1) The name and address of the person submitting the notification;
- (2) The name and address of the insured who is the subject of the claim;
- (3) The name of the person filing the written claim;
- (4) The date of final disposition;
- (5) If applicable, the identity of the court in which the final disposition of the claim took place.

(E) The board may investigate possible violations of this chapter or the rules adopted under it that are brought to its attention as a result of the reporting requirements of this section, except that the board shall conduct an investigation if a possible violation involves repeated malpractice. As used in this division, "repeated malpractice" means three or more claims for malpractice within the previous five-year period, each resulting in a judgment or settlement in excess of twenty-five thousand dollars in favor of the claimant, and each involving negligent conduct by the radiologist assistant.

(F) All summaries, reports, and records received and maintained by the board pursuant to this section shall be held in confidence and shall not be subject to discovery or introduction in evidence in any federal or state civil action involving a radiologist assistant, supervising physician, or health care facility arising out of matters that are the subject of the reporting required by this section. The board may use the information obtained only as the basis for an investigation, as evidence in a disciplinary hearing against a radiologist assistant or supervising radiologist, or in any subsequent trial or appeal of a board action or order.

The board may disclose the summaries and reports it receives under this section only to health care facility committees within or outside this state that are involved in credentialing or recredentialing a radiologist assistant or supervising radiologist or reviewing their privilege to practice within a particular facility. The board shall indicate whether or not the information has been verified. Information transmitted by the board shall be subject to the same confidentiality provisions as when maintained by the board.



(G) Except for reports filed by an individual pursuant to division (B) of this section, the board shall send a copy of any reports or summaries it receives pursuant to this section to the radiologist assistant. The radiologist assistant shall have the right to file a statement with the board concerning the correctness or relevance of the information. The statement shall at all times accompany that part of the record in contention.

(H) An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired radiologist assistant to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

(I) In the absence of fraud or bad faith, a professional association or society of radiologist assistants that sponsors a committee or program to provide peer assistance to a radiologist assistant with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a radiologist assistant to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 4778.17. A genetic counselor, professional association or society of genetic counselors, physician, or professional association or society of physicians that believes a violation of division (B) (6) of section 4778.14 of the Revised Code has occurred shall report the information upon which the belief is based to the monitoring organization conducting the program established by the state medical board under section 4731.251 of the Revised Code. If any such report is made to the board, it shall be referred to the monitoring organization unless the board is aware that the individual who is the subject of the report does not meet the program eligibility requirements of section 4731.252 of the Revised Code.

An individual or entity that reports to the board, reports to the monitoring organization described in section 4731.251 of the Revised Code, or refers an impaired genetic counselor to a treatment provider approved by the board under section 4731.25 of the Revised Code shall not be subject to suit for civil damages as a result of the report, referral, or provision of the information.

In the absence of fraud or bad faith, a professional association or society of genetic counselors that sponsors a committee or program to provide peer assistance to a genetic counselor with substance abuse problems, a representative or agent of such a committee or program, a representative or agent of the monitoring organization described in section 4731.251 of the Revised Code, and a member of the state medical board shall not be held liable in damages to any person by reason of actions taken to refer a genetic counselor to a treatment provider approved under section 4731.25 of the Revised Code for examination or treatment.

Sec. 5167.01. As used in this chapter:

(A) "Controlled substance" has the same meaning as in section 3719.01 of the Revised Code.

(B) "Dual eligible individual" has the same meaning as in section 5160.01 of the Revised Code.

(C) "Emergency services" has the same meaning as in the "Social Security Act," section 1932(b)(2), 42 U.S.C. 1396u-2(b)(2).

(D) ~~"Home and community-based services-medicaid waiver component"~~ "ICDS participant"

has the same meaning as in section ~~5166.01~~ 5164.01 of the Revised Code.

(E) "Medicaid managed care organization" means a managed care organization under contract with the department of medicaid pursuant to section 5167.10 of the Revised Code.

(F) "Medicaid waiver component" has the same meaning as in section 5166.01 of the Revised Code.

(G) "Nursing facility services" has the same meaning as in section 5165.01 of the Revised Code.

(H) "Prescribed drug" has the same meaning as in section 5164.01 of the Revised Code.

(I) "Provider" means any person or government entity that furnishes services to a medicaid recipient enrolled in a medicaid managed care organization, regardless of whether the person or entity has a provider agreement.

(J) "Provider agreement" has the same meaning as in section 5164.01 of the Revised Code.

Sec. 5167.03. As part of the medicaid program, the department of medicaid shall establish a care management system. The department shall implement the system in some or all counties.

The department shall designate the medicaid recipients who are required or permitted to participate in the care management system. Those who shall be required to participate in the system include medicaid recipients who receive cognitive behavioral therapy as described in division (A)(2) of section 5167.16 of the Revised Code. Except as provided in section 5166.406 of the Revised Code, no medicaid recipient participating in the healthy Ohio program established under section 5166.40 of the Revised Code shall participate in the ~~care management~~ system.

The general assembly's authorization through the enactment of legislation is needed before home and community-based services available under a medicaid waiver component or nursing facility services are included in the care management system, except that ICDS participants may be required or permitted to obtain such services under the system. Medicaid recipients who receive such services may be designated for voluntary or mandatory participation in the system in order to receive other health care services included in the system.

The department may require or permit participants in the care management system to obtain health care services from providers designated by the department. The department may require or permit participants to obtain health care services through medicaid managed care organizations.

SECTION 2. That existing sections 4730.26, 4730.32, 4731.224, 4731.24, 4731.25, 4731.291, 4731.573, 4759.02, 4759.05, 4759.051, 4759.06, 4759.07, 4759.08, 4759.10, 4760.01, 4760.14, 4760.16, 4761.01, 4761.03, 4761.032, 4761.04, 4761.05, 4761.06, 4761.07, 4761.09, 4761.10, 4761.11, 4761.14, 4762.14, 4762.16, 4774.01, 4774.14, 4774.16, 5167.01, and 5167.03 and sections 4761.031 and 4761.08 of the Revised Code are hereby repealed.

SECTION 3. A dietitian whose license to practice dietetics under Chapter 4759. of the Revised Code was placed in inactive status before the effective date of this section shall, not later than June 30, 2018, have the dietitian's license placed in active status by meeting the continuing education requirements established in rules adopted under section 4759.05 of the Revised Code, as amended by this act, and paying the license renewal fee specified in section 4759.08 of the Revised Code, as

amended by this act. A dietitian's inactive license that is not placed in active status by June 30, 2018, shall be considered expired.

SECTION 4. A respiratory care professional whose license to practice respiratory care under Chapter 4761. of the Revised Code was placed in inactive status before the effective date of this section shall, not later than June 30, 2018, have the license placed in active status by meeting the continuing education requirements of section 4761.06 of the Revised Code, as amended by this act, and paying the license renewal fee specified in section 4761.07 of the Revised Code, as amended by this act. A respiratory care professional's inactive license that is not placed in active status by June 30, 2018, shall be considered expired.

SECTION 5. This act is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, and safety. The reason for such necessity is that impaired practitioners present significant risks to the health and safety of patients in this state and improved access to substance abuse treatment for those practitioners greatly decreases those risks. Therefore, this act shall go into immediate effect.

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*Speaker* \_\_\_\_\_ *of the House of Representatives.*

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*President* \_\_\_\_\_ *of the Senate.*

Passed \_\_\_\_\_, 20\_\_\_\_

Approved \_\_\_\_\_, 20\_\_\_\_

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*Governor.*

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

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*Director, Legislative Service Commission.*

Filed in the office of the Secretary of State at Columbus, Ohio, on the \_\_\_\_ day of \_\_\_\_\_, A. D. 20 \_\_\_\_.

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*Secretary of State.*

File No. \_\_\_\_\_ Effective Date \_\_\_\_\_